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MONTANA CIVICS

AN ELEMENTARY TEXT-BOOK IN STATE AND LOCAL GOVERNMENT.

BY

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CHICAGO
SCOTT, FORESMAN AND COMPANY
1903

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PREFACE.

The purpose in offering this book is to enable pupils in the public schools of Montana to have the means of studying government as it actually exists where they live. The diversities in state and even more in local government, in different states of the American union, are such that what is written for use in some states will not apply to others. If a pupil is to learn about his own state, there are consequently only two alternatives—either to have a book written expressly for that state, or to expect the pupil as he goes along, to make the necessary mental corrections—perhaps with the aid of a condensed summary appended to his textbook.

Teachers who have had some experience do not need to be told that the latter attempt will not work successfully. The adult mind may be able to grasp generalizations, and modify them to secure a mental picture of local conditions. But the child must start with what is definite and specific.

This is indeed one of the chief reasons for emphasizing the study of one's own government. It is not simply that an understanding of the government with which he is immediately connected is of most practical value. But it is only by starting with what is right at hand and accessible to the child's personal observation, that the study can be made other than mere "book learning."

For this reason every effort has been made in the present work to turn the pupil's attention to what is really going

on about him, so that he may not associate the study of civics simply with the school and "lessons," but come to connect it with actual life. It is hoped that every teacher who uses this book may keep this purpose constantly in mind. Foot-notes occasionally offer suggestions which the writer has found of great practical help in achieving the end sought.

Teachers of small experience may be disappointed in not finding more historical matter. There is a time when some knowledge of the historical development of political institutions will throw light on a pupil's understanding of his own government, but that time is certainly not at the beginning of his study. We do not think it necessary to instruct a child in the origin and development of the alphabet and the general history of language before he learns to read. Nor can a pupil who knows next to nothing of present political institutions, get from books any lucid conception of prehistoric conditions.

Nevertheless the present book does not by any means ignore historical aspects, and the smallest library, even the school histories, will supplement this to as great an extent as most pupils will find desirable till they reach a more advanced stage of their studies.

Dillon, August 1, 1903.

MONTANA CIVICS.

CHAPTER I.

LOCAL GOVERNMENT.

It must perplex pupils, if not teachers, to notice what a great diversity there is in definitions of government in different text-books. This is not the place to discuss these definitions. But a very little study discloses the reason for such conflicting variety. Each writer has his own opinion of what government ought to be. But no government that actually exists anywhere corresponds to this notion. Consequently the impossible task is undertaken of making a definition that will agree with the writer's notion of what *ought to be*, and at the same time apply to what *is*.

What Government Is.—Now many modern governments are exceedingly complicated affairs. But the fundamental idea of government itself is very simple. The following illustration may make this clear. Water is very necessary to human life; but there are many different ways of securing a water supply. In one neighborhood it may be entirely satisfactory for every household to have a well on the premises and be wholly independent of every other household. In another neighborhood, it seems better for several people to combine their efforts. They may, for example, sink a well on the corner of four adjacent lots, and use water from this, or they may lay pipes from a spring

or a running stream on the premises, and so, not only have water for their own use, but sell a supply to others.

But in some circumstances it may be better for all the inhabitants of a community to combine their efforts, and establish a water system for supplying all.

Sometimes scattered families on the frontier protect their own homes against marauders and savages. In other instances a number of persons combine and hire guards to protect their property. In still other cases a whole community regularly and systematically co-operate for mutual protection.

Some families educate their own children. Sometimes teachers are paid to teach the children of several families. Still another way is for a whole community to combine and employ teachers for all the children.

Many more illustrations might be given, but these are enough to show how various objects may be accomplished in any one of three different ways: by individual effort, by the combined efforts of several persons, and by a complete combination of a whole community. *Wherever we find permanent and systematic combination of a whole community for any purpose, there we have government.*

It will be noticed that this statement does not imply any particular theory about the probable origin of government. Nor does it necessitate any discussion about the "proper" function of government, a question over which a great deal of breath has been wasted. Some persons maintain that the only proper function of government is to kill or imprison people, that all other objects should be attained only by individual efforts, or the association of a few persons. The fact is, that there are few if any objects of human endeavor which have not, at one time or another, been undertaken by each of these methods. Which is the best method for

attaining any particular end is largely a question of experience, with which we are not specially concerned here.

Nor is any question raised about how people are led to co-operate. If it is largely a matter of compulsion with many people, we have a despotic type of government. The more largely the co-operation is voluntary, the nearer we approach the essence of pure democracy. Governments differ chiefly in the relative proportions in which the voluntary and compulsory features enter. No government known to history has been wholly devoid of either element.

Our Different Governments.—Now, just as some objects may be best accomplished by the co-operation of all the people in a community, so some things may be done best by the co-operation of several communities, or even of all the people in a large extent of country. Consequently, the same people are often concerned in several different governments at the same time. The co-operation of the people of a single neighborhood is accomplished through a township government or a city government or the government of a school district. Those things that can be more satisfactorily accomplished by the co-operation of all the people in a wider area are managed through county government. Objects that are better attained through still wider co-operation, come within the sphere of the state government. Finally, the federal government achieves ends that require the co-operation of the whole nation.

Township Government.—In some states that are very thickly settled, the people co-operate in a good many matters in small groups called townships, which are usually about six miles square. But Montana is so sparsely settled that regions so small as that seldom contain enough people to make township government practicable. So the principal unit of local government in Montana is the county.

County Government.—There are at present in Montana twenty-six counties, having areas varying from about one thousand to more than sixteen thousand square miles. Naturally, the counties of the greatest area are in the more thinly settled parts of the state, and as their population increases, some of these counties will doubtless be divided in two.

There are several things in regard to which the people of a county can be of help to one another. One of these is in preserving the peace and settling disputes. But part of this work is done by other units than the county, so it will be more convenient to study all about that matter by itself, and we shall do this in a separate chapter on the Judiciary.

The people of a county also co-operate in regard to education. But as some educational matters are managed by the state as a whole, it will be better to leave this also for a separate chapter on the school system.

What the County is For.—So, apart from schools and judicial business, there are three things especially in which the people of a county co-operate. These are, the public roads, the care of the poor, and the keeping of certain public records.

Now, to accomplish these ends, three things are necessary: 1st, to decide just what shall be done; 2d, to provide for meeting the expense involved; and 3d, to have it understood just which part of the work shall be done by which persons.

Where there is township government, it is possible for all the grown men to come together and talk matters over, decide what is best to do, arrange for raising the money needed, and select the persons to see to the different details.

This is just what is done in the New England "town meeting."

But in a Montana county many people would have to travel a long way to get together, and even if they all came—since there are seldom less than a thousand, and in some counties nearly twenty thousand men,* they would make such a crowd that it would be impossible to have a meeting in which they could talk matters over.

So, instead of attempting this, the people of a county choose three men to represent them in the management of county affairs. Instead, therefore, of having direct or democratic government, like that of the New England township, we have in Montana chiefly indirect or representative government in the county. Chiefly representative, though there are a few matters in regard to county government that are decided directly by the people.**

Board of Commissioners.—The three representatives chosen by the people to consider and decide what shall be done by the county, are together known as the board of commissioners. They are chosen for terms of six years,

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* The following table shows the area of the different counties and their population in 1900:

	Sq. Miles.	*Pop.*		*Sq. Miles.*	*Pop.*
Beaverhead	4,494	5,615	Jefferson	1,585	5,330
Broadwater	1,247	2,641	Lewis and Clarke	2,572	19,171
Carbon	2,472	7,533	Madison	4,443	7,695
Cascade	2,764	25,777	Meagher	4,253	2,526
Chouteau	16,049	10,966	Missoula	6,385	13,964
Custer and Rosebud	20,490	7,891	Park	2,788	7,341
Dawson	13,227	2,443	Ravalli	2,771	7,822
Deer Lodge and Powell	4,252	17,393	Silver Bow	1,017	47,635
Fergus	8,928	6,937	Sweet Grass	2,887	3,086
Flathead	8,419	9,375	Teton	7,588	5,080
Gallatin	2,583	9,553	Valley	13,368	4,355
Granite	1,543	4,328	Yellowstone	3,710	6,212

The Crow Indian Reservation (area 5,475 square miles, population 2,660) is not included in any county.

** For instance, the people decide whether the county shall go in debt for more than ten thousand dollars, whether the county seat shall be moved to another town, whether there shall be a county high school, and whether liquor-selling shall be prohibited. They also decide who some of the county officers shall be. How they do this will be seen when we come to study elections.

but in such a way that the term of some commissioner expires every second year.*

The board of commissioners organize by choosing one of their own number as chairman. Their meetings are held at the county seat** and are open to the public. The regular meetings begin on the first Monday of December, March, June and September; special meetings may be called at any time by a majority of the board. A statement of all the proceedings*** of the board is published after the adjournment.**** Each commissioner is paid by the county eight dollars for each day's attendance at meetings and ten cents for each mile traveled.

Roads.—In a mountainous country, the care of the roads***** is a very great task, and if we look over the proceedings of the county commissioners, we shall see that this business occupies a large part of their attention.

They decide where roads shall be located. This is usually

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* This will be true when a new plan, adopted in 1902, gets fully into operation. The present boards of commissioners all serve till the end of 1906. In that year each county will choose one commissioner for two years, one for four and one for six years. After that, one commissioner, to serve for six years, will be chosen every second year.

** The county seats of the different counties are as follows:

County.	*Seat.*	*County.*	*Seat.*
Beaverhead	Dillon.	Lewis and Clarke	Helena.
Broadwater	Townsend.	Madison	Virginia City.
Carbon	Red Lodge.	Meagher	White Sulphur Springs.
Cascade	Great Falls.	Missoula	Missoula.
Chouteau	Fort Benton.	Park	Livingston.
Custer	Miles City.	Powell	Deer Lodge.
Dawson	Glendive.	Ravalli	Hamilton.
Deer Lodge	Anaconda.	Rosebud	Forsyth.
Fergus	Lewistown.	Silver Bow	Butte.
Flathead	Kalispell.	Sweet Grass	Big Timber.
Gallatin	Bozeman.	Teton	Chouteau.
Granite	Philipsburg.	Valley	Glasgow.
Jefferson	Boulder.	Yellowstone	Billings.

*** The county clerk attends all the meetings of the board, and keeps a record in full detail of all the proceedings, showing how each commissioner voted on every question.

**** A class may derive great profit from cutting out of the newspapers and preserving in a scrap-book for several months the official reports of these proceedings. They will then have abundant practical illustration of what is here described, and can learn much more than can be fully stated in the text-books.

***** The term "roads" strictly means only highways, outside of incorporated towns or cities.

done on petition of the persons specially interested in having a particular road opened, and the recommendations of three road-viewers specially appointed to examine the matter. When a road is laid out across land belonging to any persons the owners must be compensated by the county for the land so taken, for the government is not considered to have any right to take private property for public use without compensation. But in estimating the damage done to the land-owner the board of commissioners also takes account of the benefit which he will derive from the opening of the road, and if this offsets the damage, no payment need be made. On the other hand, no land-owner can refuse to permit his land to be taken for a road, because the government has a right known as the right of "eminent domain," which has been defined as "the right which governments necessarily retain over the estates of individuals to resume them for uses of a public nature."

When a road has been established, the commissioners attend to the construction, maintenance and improvement of the highway, and of any bridges or ferries which may be necessary. To facilitate this work, they divide the county into road districts, in each of which a supervisor, working under the general direction of the board, takes immediate charge of the roads, keeping them in repair and making such improvements as may be needed from time to time. An officer known as the county surveyor, makes such surveys as the commissioners find necessary in connection with the roads.

The Poor.—In each county the board of commissioners care for persons either permanently or temporarily unable to provide for their own needs. In the case of families in temporary distress, this is sometimes done by gift of money or supplies, or medical attendance. But the usual method

is to take such persons to the poor farm, which the commissioners have provided for this purpose. Here unfortunate persons are fed, clothed and lodged in the poorhouse, and in case of sickness are attended by the county physician, sometimes in a separate building known as the county hospital, especially if they are suffering from contagious diseases. The usual method is for some citizen of the county to rent the farm and buildings at an agreed rental per year. He is then entitled to whatever he may raise out of the farm with the help of the inmates. On the other hand, he is paid by the county an agreed sum per day for the care of each person consigned to the farm.

Sometimes the aid rendered to the poor consists of railroad fare to some other place where they are thought to have friends.

In the more populous counties, where there is a great deal of business for the commissioners, there is a county officer known as the auditor, who looks after the wants of the poor.

County Records.—Among the things of which it is very desirable to have an accurate public record, are all those things which show who are the owners of the different pieces of land in the county. If a man offers to sell me a sack of flour or a suit of clothes, which is in his possession, it is ordinarily safe enough to presume that the goods are really his, and that he can sell them to me. For, in the absence of any suspicious circumstances, it is reasonable to suppose that one who has personal property in his possession is its owner. Personal property can be moved from place to place, and if it should get out of the owner's possession, he would naturally take measures to recover it.

But with real estate it is very different. Since it cannot be moved, one who owns considerable real estate cannot get

it all into one place. It is very common for owners of real estate to lease it to others for a long period. Therefore the fact that a man has a piece of land in his possession is no evidence that he is the owner. Nor can the owner affix an indelible brand to it as he can to live stock. So it is very important for an owner of land to be able to prove that he is the owner.

Furthermore, it is very common for land-owners to pledge land as security for the payment of a debt. When this is done, it would be wrong for the land to be sold to anyone who was ignorant that the land was so pledged. Or, to express the same thing in different words, the nominal owner in such a case would really be only part owner, and, of course, could sell only what he owned, namely, a part interest in the land.

Therefore the board of commissioners provide record books, and a fire-proof vault to keep the books in. When a person buys a piece of land in the county, he brings the deed to an officer known as the county clerk, and gets him to copy it into the record. Similarly a mortgage or any other legal paper affecting the title to real estate, is recorded, and as these records are open to public inspection, it is possible for one who contemplates buying a piece of land to learn positively who the owners are.*

There is also a county officer known as the surveyor, who is employed to locate the boundary lines of real estate.**

Court House.—In order to have a place for the board to meet, to keep the public records, to provide offices for the county officers, and a meeting place for the district

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* The county clerk also records all marriages, births and deaths, occurring in the county, official bonds, assignments for the benefit of creditors, estrays, and lost property.

** A survey may be made by any competent person, but when made by the county surveyor, it is accepted as evidence in a court of law.

court,* the board build, or sometimes rent, at the county seat, a building known as the court house.

In this connection also they usually provide a jail for the detention of persons confined there by order of the court. These, as well as the other buildings belonging to the county, are in charge of the board of commissioners.

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* Described on page 72.

CHAPTER II.

THE FINANCES OF THE COUNTY.

Whether people supply their needs by working separately or by co-operating, there is very little that can be accomplished without involving some expense. To keep up the roads, to care for the poor, to carry on schools, and to do the other things which the people of a county combine to accomplish, cost a great deal of money. To provide for meeting all these expenses is consequently a very important part of the business of the county.

There are several sources from which counties derive some income, but as taxation is the principal one, we shall consider that first.

Taxation.—Various plans for raising taxes are employed in different places, but Montana counties depend chiefly on property taxes and poll taxes. Poll taxes are levied on every man between the ages of twenty-one and fifty to the amount of two dollars each,* for road purposes, and on men between twenty-one and sixty years old, a similar tax for the poor fund.

Property taxes are levied on all the property in the county except public property and property used exclusively for religious, educational or charitable purposes, or for agricultural fairs, hospitals or cemeteries.

Assessment.—In order to levy a tax it is of course necessary first to know what property and polls are in the county.

* People who prefer to do so may contribute one day's labor on the roads in place of paying this tax.

For this purpose an officer known as the county assessor makes, between the first Monday of March and the second Monday of July in each year, an *assessment.* That is, a list of all the polls in the county, and of all the property-owners, together with the kind and value of their property.*

As changes may take place during this time, the assessor, no matter on what day he happens to assess a property-owner, takes account of things as they were on the first Monday of March.

The assessor sends to each property-owner a blank statement in which he may declare under oath what he believes to be the value of his property, but if he refuses or neglects to make such statement, he must submit to whatever estimate the assessor makes.

Equalization.—When the assessor has completed his work, he reports it to the county clerk, who lays it before the board of commissioners. On the third Monday of July the commissioners meet as a "Board of Equalization." At this meeting the board increases the assessment of any property whose value seems to have been underestimated, and if property-owners think the assessor has unreasonably increased the estimates which they have given him, they may bring in evidence to show the board that their assessment should be lowered, and the board decides what is fair.

The Tax Levy.—When the assessment has been completed, the data are then available for levying the tax. The county tax is levied by the board of county commissioners, who meet for this purpose on the second Monday in August.

Levying the tax is done after estimating the probable

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* Even if some of the property-owners live in other counties or states, they are taxed in the county where the property is.

amount of money which will have to be raised by taxation to meet the expenses of the county for the ensuing year. Dividing this by the total valuation of taxable property, of course, gives the number of mills which must be levied on each dollar's worth of taxable property. It is usual for the board to specify the number of mills levied for each purpose.*

Apportionment.—When the tax has been levied, the county clerk enters against each name in the assessment book the amount of the tax to be paid, and notifies each taxpayer, by mail, how much his taxes are.

Collection of Taxes.—The county treasurer is the collector of taxes,** and each property owner must pay his taxes on or before the thirtieth of November. If the taxes are not paid at that time, a penalty equal to ten per cent. of the amount of the taxes is added, and interest at the rate of one per cent. a month until the taxes are paid.

Tax Sales.—On a day appointed, in the month of January, the county treasurer sells at public auction all real estate upon which the taxes have not been paid, or which belongs to persons who have not paid the taxes due on their personal property. The property goes to the person who offers to take the least part of it in return for paying the whole of the tax, penalty and interest due.*** At any time after the first Monday in February, if anyone has failed to pay the taxes on his personal property, the treasurer may seize and sell so much of that personal property as may be necessary to get money enough to pay the taxes.

Inheritance Tax.—Besides the poll and property tax

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* The road tax may be from one to three mills, the poor tax not more than two mills.

** For the convenience of taxpayers, state, city and school district taxes are also apportioned by the county clerk and collected by the county treasurer at the same time as the county tax.

*** The owner has three years in which to redeem real estate sold for taxes.

there is also a tax known as the inheritance tax. This tax does not yield very much at first in a newly settled state, but in course of time it will come to be an important source of income. The payment of any tax is apt to be regarded as more or less of a hardship, because it is difficult to arrange a tax which does not to some extent discourage some form of industry. But an inheritance tax is probably less open to this objection than any other form of tax that has been tried. The fact that a tax will be levied on a man's estate when he dies does not check in the least his disposition to accumulate a fortune while he is alive; and as for the people who receive an inheritance, they have reason to be grateful that they get anything at all to which they really have no claim, and cannot therefore reasonably complain if a small percentage is retained by the government. Furthermore, a very great amount of personal property escapes all taxation during the lifetime of the owner, because of the ease with which it may often be concealed from the assessor. An inheritance tax makes sure that it will be taxed at least once in each generation.

There is, however, a great difference between taxing widows and young children on the property which the head of the family had saved for the express purpose of supporting them after his death, and taxing those who are not dependent on the care of the deceased person. The law therefore exempts from the inheritance tax estates of less than $7,500 when left to the immediate family and descendants of the deceased, and levies only one per cent. on the excess over $7,500. But estates left to others are taxed five per cent. if they exceed $500.*

Licenses.—Besides the revenue derived from taxation,

* Only two-fifths of the inheritance tax goes to the county, and is used exclusively for school purposes, the rest goes to the state.

the county also exacts a license fee from persons and corporations carrying on a business or profession in the county. The amount varies from ten dollars to $1,600 per year, according to the character and magnitude of the occupation.*

Fees and Fines.—The county gets all fees collected by the sheriff, the county clerk, the clerk of the district court, and the treasurer. Fines, unless the law provides otherwise, go into the school fund.

Public Debt.—If it is not possible to obtain, from all these sources, enough money to meet the expenses of the county, the board of commissioners may borrow money (not to exceed an amount equal to five per cent. of the value of all the taxable property in the county), issuing bonds pledging the payment of the principal and interest. But not more than ten thousand dollars can be borrowed for one purpose, without the approval of a majority of the voters of the county at a special election. Whenever bonds are issued, the commissioners must levy, every year, an additional tax sufficient to pay the interest on the bonds, and to provide a fund** for the payment of the principal when it becomes due.

County Expenditures.—The expenditure of county money is all under the control of the board of commissioners. No money can be taken from the county treasury except to meet some expenditure authorized by the board. Whenever a person wishes to get money from the county, he must present a bill showing that he has performed services or furnished goods ordered by the board.*** If the board approve the bill, they order the clerk to draw and give to the claimant a warrant on the treasurer for the

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* One-fourth of the amount collected for licenses goes to the state.

** Such a fund is called a sinking fund.

*** In counties which have an auditor, this officer must certify to the correctness of a bill before it can be approved by the board.

amount due. This warrant is a paper which directs the treasurer to pay to the person named the amount indicated, and tells him out of what fund to take the money. To guard against fraud, the clerk gives the treasurer a list of all the warrants he has drawn.

When a warrant is presented to the treasurer, he pays the money, if there is any in the fund indicated. If not, he endorses on the warrant, "Not paid for want of funds," and the warrant then bears six per cent. interest till there is money in the treasury to pay it. The treasurer keeps books which show the facts in regard to all the receipts and expenditures, and the condition of the different funds.

CHAPTER III.

ELECTIONS.

At the outset of our study it was seen that three things are necessary when people are going to co-operate. We have now seen, 1st, how it is decided in a county what shall be done, 2d, how the expense is met. It remains to be seen, 3d, how the various tasks are assigned to the different persons.

Some of this assigning of tasks is done directly by the people of the county. Much of it is also done by the board of commissioners. They appoint the road supervisors, the road viewers, the county physician, the keeper of the poor farm, already mentioned, and the registry agents, and the judges and clerks of election yet to be described. Besides this, they fill all vacancies which may occur in places for which persons are regularly chosen by the people, except vacancies in the board itself.*

The people of the county directly decide to whom shall be assigned the tasks of being county clerk, sheriff, treasurer, superintendent of schools, surveyor, assessor, public administrator, county attorney, clerk of the district court, auditor, justice of the peace and constable.** They also as we have seen, select the county commissioners, who are their representatives, and they select, besides, their representatives in the government of the state. This brings us to the subject of elections.

* Vacancies on the board of commissioners are filled by appointments made by the judge of the district court.

** School matters are deferred to a later chapter.

There are three things especially important about elections: 1st, that only those persons should vote who are really voters of the county; 2d, that there should be suitable candidates to choose from; and 3d, that the voter should have a chance to vote in perfect secrecy, so as to be able to make a free choice without fear or compulsion.

Registration.—To attain the first end we have a system of registration. At the June meeting before a general election the board of commissioners map out the county into convenient districts, and appoint a registry agent for each. Every day for two weeks, beginning the fourth Monday before a general election, these agents keep their offices open, and register the names of all voters in their districts who come and ask to be registered.* To be a voter one must be a male citizen of the United States,** twenty-one years old or more, and a resident of Montana one year and of the county thirty days before the time of the election, and pardoned if he has ever been convicted of felony; but no idiot or insane person can vote. If there is doubt whether a person meets all these requirements, he has, during this two weeks, opportunity to present his proofs to the registry agent and have the question settled. Voters who may have been sick or away from home the whole two weeks of registration, have a further opportunity to register on the second Monday prior to the general election.

The completed registry list is published, and any voter may, up to a week before the election, challenge any name—that is, state reasons for believing the person not to be qualified to vote. The registry agent then sends to the

* Except in cities where there are more than a thousand voters, anyone who registered in 1898 or any subsequent year, need not register again until 1906, and every eighth year thereafter, unless he moves into another district.

** Read the first clause of the XIVth amendment to the constitution of the United States, to see who are citizens of the United States, and look up the subject "Naturalization" in the index of a book on the federal government.

election judges in each precinct the list of registered voters of that precinct, noting the names of all who have been challenged.

No one can vote whose name is not in the registry list, and those who have been challenged must prove to the judges that they have the required qualifications, before they can vote.

Candidates.—The nomination of candidates is a matter which requires a good deal of explanation. It is managed mainly through political parties. Now, the subject of political parties cannot very well be thoroughly explained in a book on local and state government, because political parties are based almost wholly on differences of opinion about the proper policies to be pursued by the government of the United States. It is true that in a state election there is sometimes a very clear contrast between the courses desired by opposing political parties in regard to state matters, but as a rule most people vote in state elections and even in county elections for people who agree with them in regard to national politics. This may seem rather strange, and indeed nobody ever has been able to make a thoroughly logical explanation of the fact. But it is a fact nevertheless.

So, even in county elections, as a rule, the voters of each political party have their candidates. In Montana there are in almost every instance democratic candidates and republican candidates, and frequently other candidates as well. Sometimes even the members of a party are not able to agree, and two factions of the same party have separate sets of candidates. Sometimes two parties, neither of which has enough voters to carry a county alone, come to an agreement whereby one party selects candidates for some of the county offices and the other selects candidates for the other offices. Then each "endorses" the candi-

dates selected by the other. This is known as "fusion,"* and by combining the votes of two parties, sometimes results in candidates being elected who would not have been elected if they had been the candidates of only one party.

Nominations.—To select the candidates, the voters of each political party in a county hold a public meeting called a caucus, or else those of each precinct meet and select delegates, in proportion to their numbers, and these delegates then hold a meeting called a convention. The caucus or convention, as the case may be, meets from twenty to sixty days before the election, selects candidates, and files their names with the county clerk. The caucus or convention also selects several persons as a "central committee," who attend to the holding of public meetings and other means of persuading people to vote for their candidates, and who arrange the time and place for the next convention. They are usually authorized also to select other candidates to take the place of any who may decline the nomination.**

Candidates may also be nominated by petitions signed by a number of voters equal to at least five per cent. of the number of votes cast for the successful candidate at the last preceding election.

Primary Elections.—While this method of selecting candidates by party conventions is the one most commonly employed in other states, as well as in Montana, it often fails to give satisfaction. Persons who are candidates or who have some strong interest in the choice of a certain candidate, are sometimes able to influence the delegates to do differently from what the persons who elected them wish,

* In Montana the most numerous instances of fusion have been between the democratic and people's party, (often called the "populists") though in some counties the republicans have occasionally fused with other parties.

** This is especially necessary in connection with fusion agreements. These are often managed by the central committees of the two parties.

with the result that the candidates who are chosen by the convention are very unsatisfactory to the voters of the party. This has led in some states to the enactment of what is known as a primary election law. This provides for an election at which each voter should indicate his preference among the different persons who might be willing to be candidates of his party. Those receiving the most votes would then be the candidates.

Election Officers.—The board of commissioners divides the county into a convenient number of election precincts, and locates a polling place in each precinct. At their last meeting before the election, the board appoints five judges for each precinct in which there are a hundred voters, and three judges in the smaller precincts. Not more than three judges, and in the smaller precincts not more than two, may be of the same political party. The judges choose two persons to act as clerks.

After the nominations have been made, the county clerk has ballots printed, containing the names of all the candidates. Those of any one party are all printed in the same column, with the name of the party at the top. If any question is to be submitted to the voters, this question is also printed on the ballots.

The day for election is the Tuesday next after the first Monday of November in each even-numbered year. The polls are open from eight in the morning to six in the evening.

Voting.—When a voter enters the polling place, one of the judges takes a rubber stamp and stamps on the back of a ballot the words "Official Ballot," together with the name of the precinct and county, the date, and the name of the county clerk. He then hands this ballot to the voter, who takes it to a screened booth and there privately marks X in

the square at the left of the name of every candidate for whom he wishes to vote.* If he wants to vote for a person whose name is not printed on the ballot, he may write the name and mark X before it.

The voter then folds the ballot so that the official stamp is in sight, but the names concealed. This makes it sure that the ballot is the one given him by the judge, but prevents anyone from seeing how he has voted. He then hands the ballot to the judge and calls out his own name. One of the clerks finds the name on the list furnished by the registry agent, and writes "voted" against it. The other clerk writes the voter's name in a blank book called the poll book. The judge then puts the ballot into the ballot box.

Canvassing the Votes.—When the polls have been closed, the judges proceed immediately, in the presence of the bystanders, to count the votes. The clerks then enter in the poll books the number of votes cast for each candidate, and these books are sent to the county clerk.

Within ten days after the election, the board of commissioners meet as a board of canvassers,** open the returns from all the precincts, ascertain the total number of votes cast for each candidate in all the precincts, and declare the result. The person receiving a larger number of votes than any other candidate for the same office is elected. The county clerk immediately makes out and delivers to the persons elected certificates of their election.

The Australian Ballot.—The kind of ballot which is in use in Montana and many other states is known as the Australian ballot, because something very much like it was used in Australia before it was tried in this country.

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* If he is unable to mark his ballot, he may have the aid of two judges of different political parties.

** In case any of the commissioners are absent, their places are taken by the treasurer, the assessor or the sheriff.

Formerly a ballot contained only the names of the candidates of one party. Consequently there were as many kinds of ballots as there were parties, and bystanders could easily see by watching which kind of a ballot the voter put into the box. Then if a voter wished to vote for some candidate of another party, he could do so only by scratching out the name on his ballot* and writing in the other name, or pasting another piece of paper over it. All this was likely to be watched by bystanders who were anxious to find out how he voted. Then, as the ballots were printed by the different candidates, a voter could get hold of as many as he wanted, and sometimes managed to slip more than one into the ballot box. Now, under the Australian system, the ballots, when folded, all look just alike. Furthermore, a voter cannot get hold of more than one ballot, for the judge in handing the voter a ballot, makes only one impression with his rubber stamp, and if any ballots without the impression of the rubber stamp are found in the ballot box, the judges throw them out and do not count them.

Another advantage of the Australian ballot is that it helps to call the voter's attention to the candidates of all the parties, since their names are all printed on the ballot. This purpose is partly defeated when a circle is printed at the top of each column, for a voter to mark and so indicate his desire to vote for all the candidates in the column. Many voters will then make a mark in the circle over the name of their party, without stopping to look over the names of the different candidates. Another objection to the circle is that it makes the voting less secret; for if people notice that a voter is in the marking booth but a second or two, they can be sure he voted a "straight" ticket, by

* This shows the origin of the popular expression to "scratch" a ticket, meaning to vote against some of the candidates of one's party, in contrast to voting a "straight" ticket, i. e., one that has not been changed.

making a mark in the circle, because it would have taken him much longer to mark the name of every candidate, which he would have had to do if he voted for some persons of other parties. But without the circle, it takes just as long to mark a ballot one way as the other. The people of Montana tried the ballot with a circle for some years, but very wisely decided to dispense with the circle.

In one respect, however, the ballot used in Montana is still inferior to the genuine Australian ballot. The latter, instead of having the names arranged in columns according to parties, groups together under the name of each office the names of all the candidates for that office, arranged in alphabetical order and with the party designation after the name of each candidate. This makes it still more certain that the voter will not overlook any candidate, but will really exercise an intelligent choice. Then, too, this arrangement does not give an advantage to any particular party, as the column arrangement does.

CHAPTER IV.

THE OFFICERS OF THE COUNTY.

Every voter in a county* is eligible to any county office,** except that only a lawyer can be county attorney, and no person can be county treasurer who has just held that office for the two preceding terms.

County officers serve for two years, except the clerk of the district court and the auditor, whose terms are four years. Their terms begin on the first Monday of January next after their election, except the treasurer, whose term begins on the first Monday of March.***

Before entering upon the duties of his office every county official takes an oath to support the constitutions of the United States and Montana, and to discharge the duties of his office with fidelity, and declares that he has not violated any election law and will not accept any bribe. He also files a bond, executed either by friends of his or by an indemnity company, to an amount specified by law, in which the bondsmen promise to make good any loss which the county might suffer by the dishonesty or negligence of the official. His bond is subject to the approval of the judge of the district court.

All county officers perform their duties under the direction of the board of commissioners, to whom they must

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* A woman may be superintendent of schools if she has the other qualifications of voters except that of sex.

** An auditor must have resided in the county for two years.

*** This is in order to enable the treasurer to complete the tax sales, described on page 13, before the close of his term.

make their reports,* and who may examine their accounts at any time,** and direct their prosecution for any delinquencies that may appear. They must keep their offices at the county seat, and the sheriff, county clerk, clerk of the district court, treasurer and attorney must have their offices open daily at least from 9 a. m. to 5 p. m. No county officer may leave the county without the permission of the board of commissioners, and this permission cannot be granted for more than sixty days.

If there is more work in connection with a county office than the person elected or appointed can perform alone, he may appoint deputies, whose salaries are determined by the board of commissioners.

The surveyor, coroner, public administrator, justices of the peace, and constables are compensated by fees paid by those for whom their services are performed. Jurors, witnesses, judges and clerks of election, and registry agents are paid in proportion to the work required of them. The keeper of the county poor farm and the county physician are compensated in accordance with contracts made annually with the board of commissioners.

Other county officers receive fixed salaries. Counties are classified according to the assessed valuation of taxable property, as follows:***

Valuation $20,000,000 or over, counties of the 1st class.
Valuation $15,000,000 to $20,000,000, counties of the 2d class.
Valuation $10,000,000 to $15,000,000, counties of the 3d class.

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* Many of these reports are published in the newspapers, and form very valuable material for illustrative study by a class.

** The auditor, in counties which have such an officer, examines the books and accounts of all the other county officers, and reports thereon at every regular meeting of the Board of Commissioners. See also page 63.

*** Silver Bow county is at present (1903) a county of the 1st class; Cascade, Deer Lodge, and Lewis and Clarke, 2d; Chouteau and Missoula, 3d; Flathead, Gallatin and Yellowstone, 4th; Custer and Fergus, 5th; Beaverhead, Dawson, Jefferson, Madison, Meagher, Park, Rosebud, Teton and Valley, 6th; Broadwater, Carbon, Granite, Powell, Ravalli and Sweet Grass, 7th. The classification of any county is subject to change whenever there is a sufficient increase or decrease in the assessed valuation.

Valuation $8,000,000 to $10,000,000, counties of the 4th class.
Valuation $6,000,000 to $8,000,000, counties of the 5th class.
Valuation $4,000,000 to $6,000,000, counties of the 6th class.
Valuation $2,000,000 to $4,000,000, counties of the 7th class.
Valuation under $2,000,000, counties of the 8th class.

The salaries of the county officers are as follows:*

	CLASSES.							
	1st	2d	3d	4th	5th	6th	7th	8th
Treasurer.	$3,500	$3,000	$3,000	$2,500	$2,500	$2,000	$1,800	$1,500
Sheriff.	4,500	3,500	3,500	2,750	2,750	2,250	2,000	1,800
Assessor.	3,000	2,500	2,250	2,000	1,800	1,500	1,200	1,000
County Clerk..	3,500	3,000	2,750	2,500	2,000	2,000	1,800	1,200
Auditor.	2,500	2,000	1,750					
Clerk Dist. Ct.	3,500	3,000	2,750	2,500	2,000	1,800	1,200	1,200
County Att'y..	3,000	2,500	2,500	2,000	2,000	1,500	1,200	1,000
Sup't Schools..	2,000	1,500	1,500	1,500	1,500	1,200	800	600

Any county officer may be removed from office if convicted in the district court of misconduct or malfeasance in office.

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* The salary of the county attorney is paid one-half by the county and one-half by the state.

CHAPTER V.

THE GOVERNMENT OF CITIES.

In taking up the subject of city government, the question will naturally arise what need there is for city government. All the people in Montana are within the jurisdiction of the state government, and of the government of some county and of some school district. But only about two-fifths of them have anything to do with any city government. Why should two-fifths of the people have an additional government which the rest of the people get along without?

Why City Government is Needed.—Let us recall the fundamental feature of all government, the systematic cooperation of a whole neighborhood to meet certain needs of the inhabitants. We may then note two things about thickly-settled communities. In the first place, where people live near together, they have many needs which are not felt at all by people who live a great ways apart. Chief among these needs is the protection against the selfishness of one's neighbors. For example, it may make little difference to a rancher, if the owner of the next ranch builds a house so badly or uses it so carelessly that it burns down. The loss will fall chiefly upon the owner. If the premises are allowed to become filthy, their offensiveness and unhealthiness are felt mainly by the occupants. If one drives at a reckless speed along a country road, the chief danger is to himself and his team. But in the streets of a village or of a crowded city, the lives of many others are endangered. If the house next door burns down, my own house

will be almost sure to take fire. If garbage is allowed to accumulate in a back yard, it becomes unbearable to the neighbors. So, wherever a good many people live pretty close together, they find it very desirable to combine their efforts to prevent careless and selfish people from doing great damage.

But, besides this, there are many needs which are felt alike by people living in country or city, but which it costs a great deal to provide for. It would be a fine thing for the people in the country to have the grounds lighted up at night, to have sidewalks to walk on, to have the roads sprinkled to keep down the dust. But all these things are so expensive that people can very seldom afford them except when a large number of persons can combine. Now it is when people live near together, that it is easiest for them to combine their efforts.

So people who live near together have greater need of co-operation, and it is also easier for them to do many things by co-operating than for people living far apart.

Organizing Cities.—Now when people who live near together wish to combine their efforts, or, in other words, to establish city government, the law of Montana prescribes just how this may be done. A petition is drawn up, with a map of the proposed city, its name, a description of its limits and of the several wards into which it is to be divided. When this has been signed by at least 100 voters residing within the limits of the proposed city, it is presented to the county commissioners. Two things are to be ascertained: 1st, whether there are people enough, living near enough together to make it practicable for them to co-operate in this way. According to the law, there must be at least 300 persons, and they must live near enough together so that the ratio of area to population is not more

than one square mile to 500 inhabitants; 2d, it must be ascertained whether the people generally wish a city government. To determine the first, the board of commissioners appoint some one to take a census of the proposed city. If this proves satisfactory, the commissioners arrange to hold an election at which the voters of the proposed city vote "yes" or "no" on the question whether they wish to have a city government. If a majority vote "no," nothing comes of it, but if a majority vote "yes," the commissioners appoint a time for electing city officers.

Additions.—If, at a later time, owners of land adjoining a city wish it added to the city, they may present to the mayor a plat of the proposed additions, and offer to donate to the city the land to be occupied by streets and alleys. If the mayor and a majority of the council approve, the proposed addition becomes a part of the city.

On the other hand, when the inhabitants of a city desire its limits extended, the question is submitted to a vote, and if a majority of the voters favor the addition, the question is then submitted to the voters residing in the proposed addition. If a majority of these also vote in favor of annexation, the limits of the city are extended accordingly.

Classification.—Large cities need more officers than smaller ones, and some other differences are found to be desirable in their governments. Consequently the law groups cities into four classes. Those having more than 10,000 inhabitants are known as cities of the first class, those whose population is between 5,000 and 10,000 are called cities of the second class, those with from 1,000 to 5,000 inhabitants, cities of the third class, and those whose population is between 300 and 1,000 are called towns.

City Council.—City government is chiefly representa-

tive.* The representative body is called a council, and is composed of aldermen. Cities are divided into districts called wards,** and the voters of each ward choose two aldermen. To be eligible as alderman, one must be a qualified elector and tax-paying freeholder within the city, and a resident of the city at least two years, and of the ward in which he is elected at least one year. The aldermen serve two years, the term of one from each ward expiring each year.

The matters with which city governments have to deal are very different from those that engage the attention of the national government. To prevent the affairs of the city from becoming mixed up with questions of national politics, the city election is held at a different time from the general election, and the time fixed is the first Monday in April.

City Election.—At the city election, all qualified voters of the state may vote who have resided in the city six months and in any ward thirty days. The city election is conducted in substantially the same manner as the general election,*** except that the arrangements are made by the city council instead of the county commissioners. Registration of voters is required before every city election.

Candidates for city offices are usually nominated by conventions, in the same manner as in county matters. Sometimes these are conventions of political parties, but often, especially in the smaller cities, there is a general caucus attended by pretty much all the voters of the city. When nominations are made by such a caucus, the regular elec-

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* Voters share directly in city government in deciding on bond-issues and additions to the city, and in electing officers.

** Cities of the first class have from four to eight wards, those of the second class from three to six, those of the third class from two to four, and towns two or three.

*** See Chapter III.

tion amounts only to a formal ratification of the work of the caucus.

In alternate years a mayor is also chosen at the city election.

The terms of all persons elected at a city election begin on the first Monday of the next May, and last two years.

The Mayor.—The mayor presides at meetings of the council, and in case of a tie, he has the deciding vote. He may also disapprove the whole or any part of a resolution or ordinance passed by the council. If he does this, the measure will not go into effect unless the council passes it again by a two-thirds vote.

Power of the Council.—A majority of the aldermen constitute a quorum of the council. The council makes rules for its own proceedings, and has power to compel the attendance of members. It may punish them for improper conduct, and, by a two-thirds vote, expel a member. It may fill vacancies in its own number, and in any elective office. It chooses one of its own members as president, to take the place of the mayor in his absence.

In an introductory paragraph it was shown that the object of city government is to enable the people of a city to meet those needs which can best be met by combined effort. What these things are will differ in different cities, depending partly on the size, age and wealth of the city, and partly on a great variety of local conditions. What these needs are in any particular city can be learned by studying the city ordinances.* and the proceedings of the city council. These are usually printed from time to time in some newspaper in the city. A great aid to this study is a scrap-book

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* Ordinance is a name usually applied to a law passed by a city council. Cities generally provide for a number of printed copies of their ordinances, and a reasonable supply for a school may sometimes be obtained by the courtesy of city officials.

in which are pasted the newspaper clippings containing the proceedings of the city council, and the new ordinances adopted, for a series of months, or, if possible, for several years.

Taking such a scrap-book, and a book of ordinances, it is a useful exercise for a class to spend some time in an attempt to classify the different matters of business which have engaged the attention of the city council. In Montana cities it will probably be found that these matters can all be classified under some one of the following heads:* (1) Control of the streets and alleys, opening or closing them, providing improvements, cleaning and lighting, regulating their use and preventing their obstruction; (2) protection of the public health; (3) control of markets, with the inspection and measurement of products; (4) suppression of fires, restriction of dangerous occupations, and regulating of building; (5) preservation of peace and suppression of whatever is offensive to public morals; (6) regulation of the keeping of animals, and prevention of cruelty; (7) control of certain licensed occupations, with a view to preventing fraud and other evil practices; (8) supplying water and light; (9) maintaining a public library.

These are some of the things which experience has shown the people they can profitably manage through city government. But other things may be undertaken whenever the people of a city find them to be of advantage. Only the city government must not do anything that would conflict with the constitution of the United States or with the constitution or the laws of the state. This is only another way of saying, 1st, that the city government can control only such matters as directly affect only the city itself. For example,

* This classification is intended only to be suggestive. Pupils may make another equally good or better. Not every city will be found to have taken action on all these matters.

a city cannot coin money, or levy duties on imports, because these things would affect everybody in other parts of the country who does business with the people of the city. 2d, it is not very often that all the people of a city are perfectly agreed on all the enterprises that may be undertaken. The only way that many things can be done, is by a considerable number of persons yielding to the wishes of the majority. But there is great danger that serious injustice may be done in this way. It is hardly likely nowadays that three-fourths of the inhabitants of any region in this country would make actual slaves of the other one-fourth, though this very thing has happened in the past. There might, however, be danger that some of the people, specially impressed with the benefit to be derived from certain public enterprises, might take advantage of their power to compel others to contribute, to such an extent as to impoverish them. Hence the law places restrictions on the power of city governments in this respect. For it must be remembered that some public enterprises might benefit chiefly a part of the population. But all are obliged to share the cost. This is especially true when a city incurs a debt to be paid at a distant time. Those who have to pay the greater share of the debt may have no voice in the matter, and very little of the benefit. This leads us to the consideration of city finance.

City Finance.—The council has power to levy taxes on all the polls and all the taxable property in the city, and to raise money by the sale of licenses. Income is also derived from fines paid by persons guilty of violating city ordinances. But the charge for a license must not exceed the sum prescribed by the state law. The poll-tax must not exceed $3 per capita. The property tax for general

purposes must not exceed one per cent. of the assessed valuation of taxable property in the city.

But a special tax of one mill may be levied to support a library. Whenever a debt is incurred, additional taxes must be levied to pay the interest, and to establish a sinking fund for paying the principal of the bonds. Certain public improvements may also be made, and the expense met by a "special assessment" against the owners of abutting property. For the erection of public buildings, construction of sewers, bridges, water-works or lighting plants, or the purchase of fire-apparatus, the council may incur a debt, if the plan is approved by a vote of the taxpayers. But the total indebtedness must never exceed three per cent. of the assessed valuation of taxable property, except that an additional debt, not exceeding ten per cent. of the valuation, may be incurred to construct a sewerage system or procure a water supply.

Duties of the Mayor.—The mayor must cause the city ordinances to be executed, and may call upon citizens and militia to assist him in enforcing laws and preventing or extinguishing fires. For enforcing health and quarantine regulations, he has such power as may be vested in him by the ordinances, over places within five miles of the city limits. He communicates to the council statements of affairs, makes recommendations, and causes to be presented, once in three months, a full statement of the financial condition of the city. He may call special meetings of the council. He may also grant pardons and remit fines and forfeitures for offenses against city ordinances. He supervises the discharge of official duties by all subordinate officers, and may require of them an exhibit of their books and papers. In towns all the officers are nominated and, with the consent of the council, appointed by the mayor.

They may also be suspended and, with the consent of the council, removed by him. The same is true in cities of the first three classes, except that the treasurer and police judge are elected by the voters at the same time as the mayor.

Other Officers.—The other officers are, in towns, a treasurer, a clerk, who is ex-officio assessor, and a marshal, who is ex-officio street commissioner. In cities there are an attorney, a chief of police, and a clerk who, in second and third class cities, is ex-officio assessor. First class cities have, besides these officers, an assessor, a street commissioner, a jailor, a surveyor and, if there is a paid fire department, a chief and assistant engineer. Wherever there is a public library, the trustees are appointed by the mayor with the consent of the council.

The clerk must record the proceedings of the council, sign ordinances, resolutions and contracts adopted, and licenses and commissions granted by the council, cause the ordinances to be published, keep a record of warrants issued, preserve all records and papers belonging to the city, and make copies of them when required, give notice of elections, and notify persons of their election or appointment.

The attorney must be a person who is licensed to practice law in the state. He holds his office for two years. It is his business to attend the police court and other courts, and prosecute on behalf of the city, to defend all suits in which the city is interested, to give legal advice to the mayor and council, and draw for the council any contract, resolution or ordinance.

The treasurer must receive moneys that come to the city, and pay them out on the warrant of the mayor, keep the accounts of the city, and present a monthly financial report to the council.

The duties of the other city and town officers are prescribed by ordinance, and the council may add to the duties of these officers, and may consolidate one office with another.

The council fixes the salaries of all city officers, but within limits prescribed by law. In towns the mayor and aldermen receive no salary.

Problems of City Government.—The greatest difficulties in connection with government in this country have been encountered in the government of cities. The principal causes of bad city government have been, 1st, favoritism in appointments, especially on the police force; 2d, the very general practice of granting public franchises to private corporations, and 3d, the contract system on public works.

As most cities in Montana are so small that all the people know each other pretty well, there is a good deal of neighbor spirit, and less chance for some of these evils to become very aggravated than in larger cities. The small size of the cities also gives little occasion for very costly public works in connection with which there is strong temptation to corruption, and very few franchises of great value have been granted to private corporations.*

As a further safeguard, the Eighth Legislative Assembly enacted a law which forbids city councils to grant any franchises whatever until the proposed franchise has been approved by a majority vote of the resident freeholders of the city at a special election.

* Street-car companies hold public franchises in Butte, Great Falls, Helena, Anaconda and Bozeman. None of these franchises is of great value. Private corporations maintain water-works in Butte, Helena, Anaconda, Missoula and Kalispell. But the cities of Great Falls, Bozeman, Lewistown, Miles City, White Sulphur Springs, Red Lodge, Philipsburg and Fort Benton operate their own water-works, and Helena, Dillon and Chinook are making movements in the same direction. Miles City operates an electric light plant, but other cities have granted light franchises to private corporations. Private companies operate gas plants in Butte and Helena.

CHAPTER VI.

THE STATE.

We have seen how people have found it desirable to unite in comparatively small groups to attain some objects, in larger groups to attain others. We now come to a group larger yet, and in many respects the most important in our whole political system—*The State.*

Importance of the State.—There are a great many ends which people accomplish through the state—far more than are accomplished by the local governments on the one hand, or by the national government on the other. If we should undertake to enumerate all the different things which people do by joining their efforts together in this unit, even a brief explanation would fill the whole of a little book like this. And even if we should make such a list to-day, it would be very likely to be incomplete next year. For changes are frequently made, as the result of experience or for purposes of experiment, and for reasons which will presently be explained, plans for co-operating can be more easily changed in the case of the state than with any other political units.

But while we cannot undertake here a complete list of all that the state does, the following quotation from a famous book on political science may help us to realize how vast is the importance of the state:

"All the civil and religious rights of our citizens depend upon state legislation; the education of the people is in the care of the states; with them rests the regulation of

the suffrage; they prescribe the rules of marriage, and the legal relations of husband and wife, of parent and child; they determine the powers of masters over servants and the whole law of principal and agent, which is so vital a matter in all business transactions; they regulate partnership, debt and credit, and insurance; they constitute all corporations, both private and municipal, except such as specially fulfil the financial or other specific functions of the federal government; they control the possession, distribution and use of property, the exercise of trades, and all contract relations; and they formulate and administer all criminal law, except only that which concerns crimes committed against the United States, on the high seas, or against the law of nations." *

Contrast with County Government.—It is through the co-operation of the people of the whole state that the arrangements about county and city government, which we have already studied, have been made. Likewise it is only through the co-operation of the people of the whole state that any change in these arrangements can be made.

Suppose, for example, that the people of some county should think two years too long a time for a county treasurer to serve. They would be powerless to make a change by themselves. Only as the people of the whole state agreed to it could any change be made in the form of county government. The counties themselves are only subdivisions of the state, and are arranged to suit the wishes of the people of the whole state. They may at any time form new counties by cutting existing counties in two, or by cutting off parts from several adjacent counties, and joining these parts to form a new county.** The state may

* Wilson: The State, 2d edition, page 473.

** When the state of Montana was organized in 1889, it comprised only sixteen counties, viz.: Beaverhead, Cascade, Chouteau, Custer, Dawson, Deer Lodge, Fergus, Gallatin, Jefferson, Lewis and Clarke, Madison, Meagher, Missoula, Park, Silver Bow and Yellowstone. In 1893 Flathead and Ravalli counties were formed from parts of Missoula county, Granite from part of Deer Lodge, Teton from part of Chouteau, and Valley from part of Dawson.

also change the boundaries of counties by cutting any portion off one county and adding it on to another.*

Contrast with City Government.—Similarly the whole matter of city government is under the control of the state. The arrangements for city government which we have been studying may be changed at any time by the people of the state, even though the people of any city might be opposed to the change.

At present it is not the policy of the state to create new cities or change the boundaries of old ones, but to leave these changes to the people of each city, under regulations prescribed by the state. But a different policy might be adopted if the people of the state preferred. In many states each city has a special charter,** framed by the state legislature expressly for that city. There are one or two cities in Montana still governed under special charters granted by the old territorial legislature of Montana. But the growing practice is for the state to enact a general law on the subject of city government, applicable to all cities in the state.***

State Sovereignty.—Now in regard to state government all this is very different. The state of Montana was originally organized under the direction of the Congress of the United States, but now that the state has actually been established, there is no power outside of Montana

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In 1895 parts of Yellowstone, Park and Meagher counties were taken to form Carbon and Sweet Grass counties. In 1897 Broadwater was formed from parts of Jefferson and Meagher counties. In 1901 Powell county was formed by dividing Deer Lodge, and Rosebud by dividing Custer.

* In 1897 a part of Meagher county was annexed to Lewis and Clarke and another part to Cascade county. In 1899 a part of Deer Lodge county was annexed to Flathead and another part to Lewis and Clarke county. In 1903 a part of Silver Bow county was annexed to Deer Lodge, a part of Lewis and Clarke to Powell county, and a part of Chouteau to Cascade county.

** A charter is a document in which the sovereign power grants rights or privileges. It therefore differs from a constitution, which emanates from the people concerned, and not from some higher power.

*** Part IV, Title III, of the Political Code of Montana is a general charter for all cities in the state.

which can divide the state or alter its boundaries, or make any change in its government.* This is what is meant when people talk about the "sovereignty" of the state.

Limitations on the State.—There are, it is true, certain limitations on the power of a state. They may be summed up in a few words by saying that a state may not do anything in conflict with the constitution of the United States. Three sorts of things are forbidden to a state: 1st, control of foreign affairs and of relations with other states. It would obviously be impracticable for any one state alone to control these matters; 2d, the control of certain matters which it is very desirable to have uniform throughout the country, and which would probably be very diverse if each state managed them independently. Therefore a state is forbidden to coin money, emit bills of credit, make anything but gold and silver legal tender, or pass any law impairing the obligation of contracts. These two classes of affairs—foreign and interstate relations, and matters which must be uniform throughout the country—are under the exclusive control of the Congress of the United States. But there is a third class of things which are forbidden to the states because they are deemed subversive of liberty, and they are of course forbidden to Congress also. These are, to have any other than a republican form of government, to pass any bill of attainder or *ex post facto* law, to permit slavery, to deprive any person of life, liberty or property without due process of law, to deny to any person within its jurisdiction the equal protection of the laws, or to prohibit any citizen of the United

* Theoretically such a change might be made (through an amendment to the constitution of the United States) by the concurrent action of two-thirds of both houses of Congress and three-fourths of all the states. But as it has never been found possible to adopt an amendment affecting the powers of states except through civil war, this theoretical possibility need be no more than barely mentioned in an elementary treatise.

States from voting because of his race, color or previous condition of servitude.

While it takes some space to enumerate all these restrictions, still it is evident on a little reflection, that in spite of these restrictions, a state is almost entirely free to manage its own internal affairs in accordance with the wishes of its own citizens.

The State of Montana.—Montana, except the portion west of the main range of the Rocky Mountains, was included in the Louisiana Purchase, obtained by President Jefferson from France in 1803. The western portion of Montana was included in the "Oregon country," acquired by the United States through occupation and settlement. Both portions were united by Act of Congress of May 26, 1864, establishing Montana Territory.*

When Montana had had a separate territorial government for a quarter of a century, Congress passed an act, Feb. 22d, 1889, commonly known as the "Enabling Act," to enable the people of Montana to form a constitution** and state government and to be admitted to the union on an equal footing with the original states.

The Enabling Act.—This act provided for an election to be held May 14th, 1889, in all the counties of Montana, to select delegates to a constitutional convention. This

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* The District of Louisiana was established by Congress, March 26, 1804, embracing all the Louisiana Purchase outside the present state of Louisiana. The name was changed to the Territory of Louisiana the following year, and to Missouri Territory in 1812. The northern part of this was organized as Nebraska Territory in 1854, and the northern part of this in turn set off as Dakota Territory in 1861.

Oregon Territory was organized in 1848, and divided by the creation of Washington Territory in 1853. Idaho Territory, which was formed in 1863 from parts of Washington and Dakota Territories, comprised the whole of Montana. It was by the division of Idaho in 1864 that Montana Territory was formed.

** A constitution is a document in which the people of a state set forth the plan to which their government is to conform. While the constitution provides how laws shall be made to carry out all the details of government, it does not itself contain nearly all these details. One cannot get any adequate idea of local government in Montana from a mere study of the constitution.

convention met at Helena, July 4th, 1889, and remained in session six weeks, forming a constitution.* An election was held Oct. 1st, 1889, at which the people of Montana were to decide whether to adopt this constitution, and select persons who would be state officers in case the constitution should be adopted. As the constitution was adopted, the president of the United States issued a proclamation, Nov. 8th, 1889, declaring Montana admitted to the union, and the state government went into operation on that day.**

The State Government.—Like the county and city governments, the government of the state is chiefly representative. But just as in the county and city governments, so in the state government also the people participate directly in several important particulars.

In the first place, the people themselves select all the judicial officers and the principal executive officers of the state.

Second, the people decide on proposed amendments to the constitution. Amendments may be proposed by a two-thirds vote of both branches of the legislative assembly. Or two-thirds of both branches may propose the holding of a constitutional convention; if this proposal is ratified by a vote of the people, they choose representatives to such a convention, and this convention proposes amendments. But in either case, the amendments do not take effect unless ratified by a vote of the people. The convention plan is the one which would be taken if a general revision of the constitution were necessary; the other plan is usual when

* This constitution is printed in full, pages 91 and the following.

** In order to prevent confusion in the change from territorial to state government this constitution provided that all territorial laws remain in force in the state until repealed, that cases pending in the territorial courts should be continued to settlement in the state courts, and that all obligations of the territory of Montana should be binding upon the state. See App., Art. XX, pp. 139 ff.

only two or three sections of the constitution need to be amended.*

Third, the state cannot go into debt beyond $100,000, except in case of war to repel invasion or suppress insurrection, nor levy a tax exceeding the rate mentioned in the chapter on state finance,** nor move the capital, unless a majority of the voters favor the proposition. To change the capital requires a two-thirds vote.

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* Up to the present time (1903) only two amendments have been made to the constitution—one in regard to the supreme court, proposed by the Sixth Legislative Assembly, and ratified at the general election in 1900 (see page 114), and one in regard to the terms of county commissioners. This was proposed by the Seventh Legislative Assembly, and adopted at the general election in 1902 (see page 135). The Eighth Legislative Assembly has proposed an amendment, adding three sections to Article XVIII, prohibiting the employment of children under sixteen years of age in mines, and making eight hours a day's labor on public works, and in mills, smelters and mines. This amendment will be submitted to a vote of the people at the general election in November, 1904.

** Page 66.

CHAPTER VII.

MAKING THE LAWS.

While, as we have just seen, there are some matters which the people settle for themselves, the state government is mostly representative.

The Legislative Assembly.—The representative body is called the legislative assembly. It consists of two branches, known as the senate and the house of representatives. The senate is composed of one senator from each county; the house of representatives is made up of a number of representatives from each county, proportional to the population of the county. The present number of senators is of course twenty-six, but would be increased whenever a new county should be organized. The present number of representatives is seventy-two.* This number may be increased or diminished at any time by the legislative assembly. It is usual to reapportion the representatives after a decennial census.**

At the general election already described*** the voters in each county elect one senator and as many representatives as the county is entitled to.****

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* Silver Bow county elects twelve representatives, Lewis and Clarke seven, Deer Lodge six, Cascade five, Missoula four, Flathead, Gallatin, Jefferson and Madison each three, Beaverhead, Broadwater, Chouteau, Custer, Fergus, Granite, Meagher, Park and Ravalli each two, Carbon, Dawson, Powell, Rosebud, Sweet Grass, Teton, Valley and Yellowstone each one.

** No reapportionment has been made, however, since the census of 1900, but the apportionment based on the census of 1890 still remains in effect except as additional representatives have been assigned to new counties whenever these have been created.

*** Chapter III.

**** When a vacancy occurs, the governor of the state calls a special election in the county concerned to fill the vacancy.

Representatives must be at least twenty-one and senators twenty-four years of age, and both must be citizens of the United States and residents of their respective counties at least one year. No member of Congress and no state or federal office-holder can be a member of the legislative assembly. The senators' terms are four years and the representatives' two years. The senators are not all elected at the same time. The intention of the constitution is that one-half shall be elected at one general election and the other half at the next. But by reason of a neglect of duty on the part of the legislative assembly, it has come about that ten are chosen at one election and sixteen at the other.*

The regular session** of the legislative assembly begins on the first Monday of January in each odd-numbered year, and lasts not more than sixty days. Special sessions may be held at any time on the call of the governor of the state, but only to consider subjects specified in the governor's proclamation.***

Organization.—The lieutenant-governor of the state presides in the senate, but to serve in his absence the senate selects one of its own members as president *pro tempore*. The house of representatives chooses one of its own members as speaker and another as speaker *pro tempore*. Each house chooses all its other officers.****

Each house also determines the rules for its own pro-

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* Broadwater, Cascade, Choutcau, Fergus, Flathead, Granite, Jefferson, Madison, Missoula, Powell, Ravalli, Rosebud, Silver Bow, Teton, Valley and Yellowstone counties elected senators in 1902, and will elect again in 1906. Beaverhead, Carbon, Custer, Dawson, Deer Lodge, Gallatin, Lewis and Clarke, Meagher, Park and Sweet Grass counties elected senators in 1900, and will elect again in 1904.

** These sessions are distinguished by numbers. For instance, the session held from Jan. 5th to March 5th, 1903, is known as the Eighth Session.

*** Only one special session has ever been held in Montana—that of May 26, 1903, called to consider an appropriation for a state exhibit at the World's Fair in St. Louis, and to provide for the care of the capitol grounds.

**** These are, for each house, a secretary, assistant secretary, journal clerk, sergeant-at-arms, assistant sergeant-at-arms, enrolling clerk, door keeper, janitor, day watchman, night watchman, chaplain, and as many committee clerks and pages as may be required.

cedure, but can do business only when a majority of the members are present, and neither house without the consent of the other can adjourn for more than three days, nor to any other place than that in which the two houses are sitting. Each house has the power to punish its own members, and even, by a two-thirds vote, expel a member. The sessions of each house and of the committees of the whole are open to the public unless the business is such as requires secrecy. Each house keeps a journal of its own proceedings, and after the close of the session this journal is printed.*

The compensation of members of the legislative assembly is six dollars for each day's session, and twenty cents for each mile traveled in going to the capital at the opening of the session and returning home at its close. The compensation may be changed by law at any session of the legislative assembly, but no increase can take effect till after the close of the terms of the members of the legislative assembly by which the change is made.

Power of the Assembly.—While the legislative assembly is the representative of the people, the people have not authorized this body to do whatever they may think best in regard to all matters that are under the control of the state. We noticed in the last chapter that certain matters require the concurrence of the voters before going into effect. But besides these the constitution, especially in Article III,** known as the "Declaration of Rights," places limitations on the power of the legislative assembly, designed mainly to secure to the people of the state religious, political and civil liberty, freedom of speech and of the

* Every school should have a copy of the Senate and House Journals of at least one session, for reference and illustrative study in connection with this chapter. A copy can usually be secured from some one who has been a member of the legislative assembly.

** See pages 92 ff.

press, speedy justice and impartial jury trial. The legislative assembly is also forbidden to pass any local or special laws in a large number of cases, and in all instances where a general law can be made applicable; no appropriation can be made in behalf of any private institution, nor can the public credit be used to construct railroads for private corporations.

Committees.—In order that any measure proposed in the legislative assembly may receive careful consideration, the presiding officer of each house appoints from the members of his house a number of standing committees, covering the different subjects likely to come before the house,* such as the committee on education, the committee on mines and mining, the committee on fish and game, etc.

How Laws are Made.—When a bill** is introduced in either house,*** the clerk reads its title, then reads the bill in full, and the presiding officer assigns it to the proper standing committee.**** Each day, when the houses have adjourned, the committees to which bills have been assigned hold meetings at which they talk over the bills, and private citizens who are specially interested are usually given an opportunity to present their objections to the bill or their reasons for wishing it to be adopted. The committee then reports the bill back to their house with the recommendation that the bill do pass, or that the bill be rejected, or that the bill pass with amendments (which they have embodied in

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* In the Eighth Legislative Assembly the senate had twenty-six standing committees, the house thirty-three.

** A proposed law is known as a "bill." If a bill becomes a law it is then called an "act." Every bill as it is introduced is numbered consecutively, and is thenceforth known as "House Bill No. . ." or "Senate Bill No. . .," as the case may be.

*** Bills for raising revenue must originate in the house of representatives, but other bills may originate in either house.

**** If a very important matter somewhat out of the usual line comes up, a special committee is sometimes appointed, on vote of the house, to consider and report on that one matter. Such a committee is discharged as soon as the particular matter has been settled, unlike the "standing" committees, which continue throughout the session.

the bill), or they may bring in a somewhat different bill which they recommend as a substitute.

If the report of the committee is favorable, the bill is then given to the printing committee,* who sees to the printing of several hundred copies and distributing them to all the members of both houses.

When a bill has been printed, it is considered in "committee of the whole." This consists of all the members of the house, but the presiding officer calls upon some other member to preside, and the rules allow more freedom of debate than in the more formal meetings. The bill is read section by section by the clerk, and amendments may be offered by any member. At any time during the proceedings a member may move to strike out the enacting clause,** and if this motion is carried, it amounts to a final rejection of the bill. Otherwise, when the discussion is over, it is usual to move that when the committee rise it report to the house (or senate, as the case may be,) that it has considered this bill, and recommends that it do pass (with amendments if any amendments have been adopted in the committee of the whole).

The bill is then sent to the engrossing committee, who have a copy, containing any amendments which may have been made in the committee of the whole, carefully typewritten. When this has been done, the engrossing committee brings in the bill, the clerk reads it for the third time, and then reads the history of the bill.*** The presiding

* The house may order the bill printed even if the committee report is unfavorable.

** The enacting clause is "Be it enacted by the Legislative Assembly of the State of Montana." This immediately follows the title of the bill.

*** The history of the bill consists of a series of memoranda entered on the back at each stage of its progress; as, for example, "Introduced by Smith, and read 1st and 2d times, and referred to Committee on Irrigation and Water Rights, Jan. 7th. Reported favorably and ordered printed, Jan. 14th. Reported correctly printed, and placed on general orders, Jan. 19th. Considered in Committee of the Whole and reported favorably with amendments, Jan. 21st. Reported correctly engrossed, and placed on general file, Jan. 24th," etc.

officer then puts the question, "Shall the bill pass?" Upon this question the clerk calls the roll in alphabetical order, and every member responds "aye" or "no" to his name, and the ayes and noes are entered on the journal. If a majority vote aye, the engrossed copy of the bill is then taken to the other house, and goes through just the same course there, except that it is not printed or engrossed again.

If the bill is amended in the other house, it is then sent back to the house in which it originated, and the question is immediately put of concurring in the amendments. If the first house does not agree to the amendments, it is usual to refer the matter to a "conference committee" of the two houses, who try to bring about an agreement. If the two houses do not come to an agreement about the amendments, the bill fails.

If the two houses agree, the bill goes to the enrollment committee of the house in which it originated, who attend to having it "enrolled"—that is, carefully copied with pen and ink on specially durable paper. This copy is signed by the presiding officer of each house in open session.

The enrolled bill is now taken to the governor of the state. If it meets his approval, he signs it. If not, he sends it back, with a written statement of his objections, to the house in which it originated. This is called "vetoing" the bill.* The governor's message is read in the house and entered on its journal. The roll is then called on the question, "Shall the bill pass notwithstanding the governor's objections?" If two-thirds vote aye, the bill goes through the same process in the other house. If it also received a two-thirds vote there, it is said to be passed over the governor's veto.

* In a bill appropriating sums of money to different purposes, the governor may veto some items while approving others.

If the governor fails either to approve or veto a bill for five days (Sundays excepted), it becomes a law. But bills which are still in the governor's hands when the legislative assembly adjourns at the end of the session may be kept by him for consideration fifteen days after the adjournment, and no such bill can become a law without his approval.

How to Find the Law.—A part of the law of the state is embodied in the constitution. This, as we have already seen, cannot be changed by the legislative assembly. But in order that people may know just what laws the legislative assembly has made, at the end of each session many copies of a volume called the "Session Laws" are printed, containing all the new laws. An alphabetical index makes it possible to find any particular law. But after several sessions have been held, one would have to look through several volumes to find what the law is. Besides this, some laws passed at the later sessions repeal or amend laws made at earlier sessions. So one cannot be sure that a law which he finds in one of the earlier volumes is still in force, without looking through all the later volumes to see whether it has been changed. This makes the matter very perplexing. Consequently the legislative assembly has provided for "codifying" the laws—that is, collecting all laws still in force, embodying in them any changes that have been made since their original adoption, and grouping together all those that have to do with similar subjects.

The Codes.—The present codes are in four parts, known as the Political Code, the Civil Code, the Code of Civil Procedure, and the Penal Code. The Political Code contains such laws in regard to the details of state and local government as have not been definitely specified in the constitution, and is therefore the part of the codes in which students of civics would naturally be most interested.

The second, known as the Civil Code, contains the laws in regard to personal and property rights of individuals and corporations. The Code of Civil Procedure contains the laws in regard to the protection of personal and property rights and redress of injuries. The Penal Code defines crimes and misdemeanors, and prescribes their penalties. These codes are divided and subdivided in such a way that, so far as possible, one may find in one place all that the law provides in regard to any particular matter.

As the present codes were formed in 1895, many changes have already been made. So to find what the law is on any matter, one must first examine the codes, and then look through the Session Laws of 1897, 1899, 1901, and 1903, to see whether any changes have been made. In time there will be so many Session Laws to look through that it will be necessary to have the laws codified again, or, in other words, to provide for a revision of the codes.

Direct Government.—We have seen in the study of county government that representative government is used only as a substitute for direct government, where there seem to be such obstacles in the way of direct or democratic government as to make that impracticable. But no system of representative government ever works perfectly, even though it is a very great improvement on any of the older forms of government which it has displaced.

The chief trouble with representative government is that the representatives do not always really represent the people. After representatives have been elected, they may be persuaded by means of great rewards promised by persons who will derive special benefit from certain legislation, to vote for measures contrary to public interests. Bribery has come to be so great an evil in all parts of this country, that the framers of Montana's constitution took great pains to

guard against it by prescribing a form of oath to be taken by every person elected, and by providing severe penalties for bribery.* But the trouble is that it is very difficult to convict anyone of bribery. There are so many ways of bringing improper influence to bear on representatives without leaving any positive evidence that can be discovered. The matter may sometimes be managed so delicately that it seems as if the representative himself hardly realized that so harsh a word as "bribery" would rightly apply to his case.

But even where there is no corruption, it is not easy for voters to find thoroughly satisfactory representatives. A great many difficult measures come before a legislative body. But very often a voter must choose between two candidates, with each of whom he agrees on some subjects and disagrees on others. He must therefore decide which matter he considers the most important, and vote for the candidate who stands for that measure, even though, on other grounds, his opponent might be preferable.

Sometimes people vote for certain candidates for the state legislature solely because those candidates are pledged to favor the election of a certain man to the United States Senate when that question comes before the legislature. This particular feature would be removed if United States senators should be elected by direct vote of the people—a plan which the legislative assembly of Montana has three times in vain memorialized Congress to permit the people of the United States to consider. But the other difficulty would still remain.

Now it might seem that if democratic or direct government was impracticable in the county, it would be still more

* Read Article XIX, Section 1, and Article V, Sections 41-43, in the constitution of the state.

so in the state. And so it would if it were designed to displace representative government altogether. But the people of Switzerland have found what they believe to be a solution of the matter, and their plan, known as the "Initiative and Referendum," has already been copied by some of the states in this country.

The Referendum.—We have already seen how the location of the state capital, the increase of the state debt, and the amending of the constitution cannot be accomplished by the legislative assembly without an express vote of approval by the people. Now the referendum simply applies this same plan to all the acts of the legislature. Not that the people would vote on every act—most of the acts would still pass unchallenged. But the referendum would empower some small percentage of the voters to demand that any particular act of the legislature should be submitted to a vote of the people, and if not ratified by a majority of the voters, it would not go into effect.

The objection is sometimes made to the referendum that it will require the people so frequently to vote upon acts of the legislature that they will not interest themselves in the matter. But in actual practice it is found that, if the referendum is only in reach all the time, it is very rarely necessary to use it. If persons who might be interested in securing bad legislation know that the laws, after passing the legislature, will almost certainly be challenged and submitted to a vote of the people if there is very serious objection to them, they will not think it worth while to bribe members of the legislature, and consequently very few measures will be passed which the people would wish to challenge.

It may be illustrated in this way. Suppose a very rich man, wishing to make his will, should take a blank, sign

his name at the bottom, give it to a lawyer whom he employed, and ask him to take it to his office, fill in the blanks with certain names and amounts, and lock it up in his safe till the rich man should die. Under such circumstances there would be a very strong desire on the part of some people to bribe the lawyer to put their names in the blank spaces instead of the names which the testator wanted there. Now if any man should be foolish enough to make his will in this way, he would be doing very much as we do when we commit the making of our laws exclusively to a legislature. He would have to trust entirely to the honesty of his lawyer, and would sometimes be deceived. But in making a will an ordinary person uses the principle of the referendum. He tells his lawyer what he wants done, and instructs him to bring the will to him for approval when he has drawn it up. Then if the will suits him he signs it, and if not, he destroys it. Knowing that this will be the case, the lawyer cannot have any object in drawing up the will any differently from his instructions, and no one would think of bribing him.

The Initiative.—The initiative may be said to be the positive form, of which the referendum is the negative. If the legislature fails to enact a desirable law, the initiative allows a certain number of voters to demand a submission of the question to the people, and if a majority vote in its favor, it becomes a law.

CHAPTER VIII.

EXECUTING THE LAWS.

We have seen how the people decide, either themselves or through their representatives, what shall be done by the state. We may now consider how it is decided who shall do these things. This is partly decided by the people themselves, who select the principal state officers, and partly it is left to these principal state officers to make selections.

The governor, the lieutenant-governor, the secretary of state, the attorney general, the treasurer, the auditor, the superintendent of public instruction, and the judges and clerk of the supreme court, are chosen directly by the people at the general election.

Since we have learned about the general election under the study of county government, only two points need to be added here: 1st, in regard to candidates; 2d, counting of votes.

State Conventions.—The county conventions, such as nominate candidates for county offices, select a number of delegates, proportioned to the number of votes cast for the candidates of the political party which they represent, at the last election.* These delegates hold a state convention at some point previously appointed, and nominate candidates of their party for the state officers to be chosen. They also select a state central committee to have charge

* Classes should watch the newspapers for announcements of the time and place of a state convention, and of the number of delegates to which the different counties are entitled.

of the arrangements of the next convention of their party. Another thing is done at this convention which is not usually done at county conventions. That is, to adopt a "platform."* A platform is a statement of the principles of the party, giving special prominence to the reasons why, in that particular election, people should vote for the candidates of that party.

Candidates for state offices may also be nominated by petition, in the same way as candidates for county offices. When the nominations have been made, they are certified to the secretary of state, and he notifies the clerks of the different counties, who then have the names of the state candidates printed on their ballots along with the names of the county candidates.

State Canvassing Board.—When the county commissioners canvass the votes in their respective counties, the county clerk sends to the secretary of state a list of the number of votes cast in the county for each candidate for a state office. On the first Monday of December the state auditor, the state treasurer and the attorney general, who constitute a board of state canvassers, canvass the returns from all the counties, and ascertain which candidates have been elected.** The secretary of state notifies the governor of the result, and the governor issues commissions to the persons who have received the highest number of votes.

State Officers.—To be eligible to any of the executive offices named,*** one must be a citizen of the United States, at least twenty-five years old, who has resided in Montana at least two years; the governor, lieutenant-governor attorney general, and superintendent of public instruction

* County conventions also sometimes adopt platforms, but this is not always done.

** In case of a tie, the legislative assembly, at its next session, by joint ballot, chooses between the candidates tied.

*** Executive officers are officers whose business it is to enforce the laws.

must be at least thirty years old, and the attorney general must be some one who has been admitted to practice law in the supreme court of the state. The treasurer is not eligible for re-election. The term of each of these officers is four years, and begins on the first Monday of January in the years 1901, 1905, etc. The salary of the governor is $5,000 per year, of the superintendent of public instruction, $2,500; of the secretary of state, the auditor, the treasurer, and the attorney general, each $3,000. The pay of the lieutenant-governor is the same as that of the speaker of the house of representatives, namely, ten dollars for each day's session of the legislative assembly and twenty cents for each mile traveled going to the capital at the opening of the session and returning home at its close.

A pretty good idea of what the people accomplish through their co-operation as a state, may be learned from a study of the business of the different offices of the state government.

The Governor.—At the head of the state is the governor. As the chief executive, it is his business to see that the laws are faithfully executed. That is only another way of saying that, when the people have decided to do certain things, the governor must see to it that these things are done. The governor cannot do all the things which the laws require to be done, but he has the general oversight of it all.

The governor is commander-in-chief of the militia forces of the state, (unless these forces should be called out into the service of the United States), and he has power to use the militia to aid in executing the laws, to suppress insurrection, or to repel invasion. The governor nominates, and, with the consent of the senate, appoints all officers of the state whose election or appointment is not otherwise

provided for. He also makes appointments to elective offices when vacancies occur. The governor may require information from the officers of the executive departments and from the officers and managers of state institutions upon any subject relating to the condition, management and expenses of their respective offices and institutions. He gives the legislative assembly information of the state, and recommends to them such measures as he deems expedient.* At the beginning of each session he presents to the legislative assembly estimates of the amount of money required to be raised by taxation for all purposes of the state.**

The governor also has power to grant pardons and remit fines and forfeitures, and grant commutations of punishments, and respites after conviction and judgment, for any offenses committed against the criminal laws of the state, but his power in this respect is limited by the necessity for having his action approved by a board of pardons, consisting of the secretary of state, the attorney general and the auditor.

The Lieutenant-Governor.—In case of the inability of the governor or a vacancy in the office,*** the lieutenant-governor serves as governor till the expiration of the term or until the disability ceases. In case of the disability of the lieutenant-governor also, the office of the governor would pass first to the president *pro tempore* of the senate, or if he were disabled, to the speaker of the house of representatives.

The Secretary of State.—The secretary of state is

* The class should obtain a copy of the governor's "message," as it is called, and make a careful study of it. It is always published in the newspapers at the time, and pamphlet copies can often be obtained afterwards.

** For the power of the governor in regard to the making of laws, see pages 50, 51.

*** The chief occasion for someone else to serve as governor is when the governor is temporarily absent from the state.

charged with the custody of the enrolled copy of the constitution, of the acts and resolutions passed by the legislative assembly, and of their journals, of the seal of the state, and of some other public documents and records. He attends the sessions of the legislative assembly, registers and attests the official acts of the governor, records conveyances made to the state, articles of incorporation filed in his office, and the official bonds of state officers. He attends to the printing and distributing of all state documents. He is also superintendent of the capitol, and keeper of certain supplies purchased for the use of the state.

The Auditor.—The auditor superintends the fiscal affairs of the state, and suggests plans for the improvement and management of the public revenue. He keeps all accounts in which the state is interested, audits all claims against the state, draws warrants on the treasurer for the payment of appropriations, and superintends the collection of all moneys due the state.

The Treasurer.—The treasurer receives and keeps account of moneys belonging to the state, and pays them out on warrants drawn by the auditor.

Other Officers.—The duties of the attorney general will be explained in the chapter on the Judiciary, and the duties of the superintendent of public instruction in the chapter on Education.

State Boards.—Many important matters in regard to the execution of the laws are committed to executive boards composed of several of the state officers.* The governor, the secretary of state and the attorney general constitute the state furnishing board, to contract for the furnishing of all stationery, printing, binding, paper, fuel, lights, etc.,

* For the state board of equalization and the state board of examiners, see chapter on State Finance; for the state board of education see the chapter on Education.

used by the various departments of the state government. The governor, the secretary of state, and the attorney general also constitute the board of prison commissioners, who have power to appoint the warden of the state prison, and have full control of the prison grounds, buildings, labor and property, and regulate the management of the prison. This board also has control and supervision of the reform school, but a board of three trustees, appointed by the governor has immediate charge of the reform school. The governor, the secretary of state and the attorney general also constitute the boards of commissioners for the insane, and for the deaf, dumb and blind, and have control and management of the state asylum.

The Carey Land Act board, consisting of the state engineer (appointed by the governor), the secretary of state and the state examiner, co-operates with the federal government in measures for the irrigation of public lands.

The state law library is in charge of a board of trustees consisting of the justices of the supreme court, the secretary of state and the auditor. A board consisting of the superintendent of public instruction, the attorney general and the auditor is authorized to establish and maintain a system of circulating libraries.

Appointive Boards.—Many other boards consist of persons appointed by the governor with the consent of the senate. Such is the board of medical examiners, composed of seven physicians, whose business it is to examine and license persons desiring to practice medicine or surgery. The board of pharmacy, composed of three pharmacists selected from a list nominated by the Montana Pharmacal Association, examines and registers persons who wish to compound and dispense drugs. The board of dental examiners, composed of five dentists, examines and certifies to

the qualifications of persons who wish to practice dentistry. The board of osteopathic examiners consists of three osteopaths who examine and license qualified persons to practice osteopathy. The board of stock commissioners, consisting of not more than one member from each county, protects the stock interests of the state from theft and disease, and recommends such legislation as will foster the live-stock industry. A similarly constituted board of sheep commissioners takes like care of sheep interests. The board of charities and reforms consists of three members, whose duty it is to investigate and supervise the whole system of the charitable and correctional institutions supported by the state, and to inspect the poor-houses and jails in the different counties, and all other places in which persons are forcibly confined. The board of arbitration and conciliation consists of three members, one of whom must be an employer and one a laborer, and is intended to settle disputes between employers and employees. The state historical library is controlled by a board of five trustees. A board of five trustees controls the state orphans' home. The soldiers' home is managed by a board of five persons, one of whom is the department commander of the Grand Army of the Republic of the state of Montana.

The board of horticulture, consisting of the governor himself and five persons whom he appoints, inspects fruit and endeavors to exterminate pests which damage fruit trees and vines. The state board of health is composed of the governor and the attorney general, together with one civil engineer and three physicians appointed by the governor and one physician chosen by the board itself as its secretary. This board co-operates with the local authorities in the different counties in trying to secure sanitary conditions and prevent the spread of disease.

The bureau of agriculture, labor and industry is in charge of a commissioner appointed by the governor. The commissioner collects various industrial and other statistics and publishes them in a biennial report.*

A secretary of the state bureau of child and animal protection is appointed by the governor to secure the enforcement of the laws for the prevention of wrongs to children and dumb animals.

Appointive Officers.—Some of the executive duties are assigned to single officers appointed by the governor with the consent of the senate. Among these are the state examiner, who examines all the books and accounts of state and county officers, of all public institutions, and of banks and investment companies chartered by the state. The veterinary surgeon investigates cases of contagious diseases among domestic animals, and quarantines or slaughters such animals when necessary. The inspector of boilers examines steam boilers in use in the state, and examines and grants licenses to steam engineers. The names of the offices inspector of mines, inspector of coal mines, and game and fish warden, indicate the nature of their work.

The governor has a private secretary, and the other elected state officers have as many deputies as the legislative assembly may from time to time provide for.

State Institutions.—Most of the institutions maintained by the state are educational, and will be described in the chapter on education. The others are either charitable or correctional. The charitable institutions are the State Orphans' Home at Twin Bridges, the Soldiers' Home at Columbia Falls, and the Insane Asylum at Warm Springs. The correctional institutions are the State Penitentiary at

* These reports contain a great deal of matter of interest to students of civics. Any school which has not received a copy of the latest report should apply to the commissioner for one.

Deer Lodge, and the State Reform School at Miles City. The immediate care and management of the Penitentiary and Insane Asylum are in the hands of contractors who are paid by the state in proportion to the number of inmates. The other institutions are managed directly by the state boards already described.

State Capitol.—The most magnificent building belonging to the state is the capitol at Helena. Here are the rooms for the meetings of the legislative assembly and the sessions of the Supreme Court. The state officers have their offices and most of the state boards hold their meetings here. Here also are to be found the State Historical Library and the State Law Library.

CHAPTER IX.

STATE FINANCE.

The financial affairs of the state are managed in very much the same way as the finances of the county, but there are some peculiarities which demand special attention.

Equalization.—There is a state board of equalization, consisting of the governor, the secretary of state, the state treasurer, the state auditor and the attorney general. This board receives from the clerk of each county a report of the assessment of property in the county. If property seems to be assessed at a lower valuation in some counties than in others, the board undertakes to equalize this, so that when the tax is levied, the people of one county will not be compelled to pay an unreasonable share of the state taxes as compared with another county. The state board also fixes the valuation of the franchise, roadway, roadbed, rails and rolling stock of all railroads operated in more than one county, and apportions this among the various counties through which the railroad runs, in proportion to the number of miles of track which the railroad has in each county.

The State Levy.—The legislative assembly, on the basis of such an assessment, levies the state tax. The constitution does not permit the legislative assembly (unless the proposition is approved by a majority of the electors at a general election*), to levy a tax at a higher rate than

* This limitation makes it practically impossible to levy a greater tax, as a general election never comes till twenty months after the adjournment of the legislative assembly.

three mills per year on each dollar of valuation; and when the taxable property amounts to $100,000,000, the rate must not exceed two and one-half mills, and when it reaches $300,000,000, the rate must not be more than one and one-half mills. Up to the present time the valuation has always been between $100,000,000 and $300,000,000, and as the legislative assembly has found use for all the money which could legally be raised, the state tax levy is always two and one-half mills.

Each county treasurer therefore adds two and one-half mills to the levy made by the county commissioners, and collects the full amount. He then sends to the state treasurer the portion which belongs to the state. As already noted, the state also receives three-fifths of the proceeds of the inheritance tax described in the chapter on county finance, and one-fourth of all money received from licenses. Fees paid to state officers are also turned into the state treasury.

Special Taxes.—Besides the general property tax there is also levied a special tax of not more than one and one-half mills on the dollar upon the assessed valuation of all cattle, horses, mules and asses, for a "stock inspector and detective fund" to be used exclusively in meeting the expenses incurred by the board of stock commissioners, and another tax of one-half mill on such stock, known as the "stock indemnity" tax, to provide a fund to pay the owners of such animals as may be slaughtered by the state veterinary surgeon on account of contagious diseases. The owners of sheep are likewise taxed one-fourth of one mill on the dollar of assessed valuation of their sheep for the "sheep inspector and indemnity fund," and there is a further tax of three and one-half mills* on the dollar of assessed

* The legislative assembly frequently changes the rate of this tax. It is sometimes as low as one-half mill.

valuation of all cattle, horses, mules, asses and sheep for the "state bounty fund," out of which bounties are paid for the slaughter of wolves and coyotes.

State Debt.—As already noted, no indebtedness can be incurred beyond $100,000 without the approval of a majority of the voters at a general election. As a matter of fact the state of Montana has no debt whatever.

Appropriations.—No money can be paid out of the state treasury except in pursuance of specific appropriations made by law, and no appropriation can be made for a longer term than two years. It is therefore an important part of the business of every regular session of the legislative assembly to decide on the amount of money to be applied, for the ensuing two years, to each purpose under the care of the state. It is usual to embody the appropriations for the executive and judicial departments in one act, and those for the maintenance of the state institutions in another. Any other appropriations must be made in separate acts, each showing in its title the purpose of the appropriation.

Expenditures.—The governor, the secretary of state and the attorney general constitute the state board of examiners, who examine claims against the state, and the auditor must not draw his warrant for any claim unless it has been approved by the board, except for the payment of the salaries of those state officers whose salaries are fixed by law.

If no appropriation has been made by the legislative assembly for the payment of a claim approved by the board of examiners, or if an appropriation has been made and exhausted, the board can only refer it, with a statement of their approval, to the next session of the legislative assembly.

When a person receives a warrant drawn by the state auditor he may present it to the state treasurer. If there are funds to pay it, it is then paid. If not, the treasurer endorses upon it "presented for payment, and not paid for want of funds," and the warrant then bears four per cent. interest till there is money in the treasury to pay it.

By studying the annual reports of the state treasurer, we may see how much money the state expends on different purposes, and in this way learn something of the work which the people accomplish by co-operating as a state.

CHAPTER X.

INTERPRETING THE LAWS.

When we are told that the judicial department "interprets" the laws, it is doubtful whether many pupils know much more about the matter than they did before. But the meaning will be clear if we recall that the laws, as they are made by the legislative department, are usually *expressed in general terms.* But the executive department can enforce the laws only by doing *specific things.*

Now if the law said that John Smith's ranch must be sold, and $500 from the proceeds paid to Thomas Brown, there would be no need of a judicial department. Or if the law said that John Doe must be sent to the penitentiary for five years, it would be very plain what the sheriff must do. But the law does not name these people; it says, for instance, that any person guilty of burglary must be sent to the penitentiary. We may imagine the sheriff, in doubt, saying to himself, "Does this law mean that I must take John Doe to the penitentiary?"

Here the service of the judicial department comes in. The judiciary looks carefully into the matter, and finally says to the sheriff, "When the law says that persons guilty of burglary shall be confined in the penitentiary, it means that you must take John Doe to the penitentiary." In other words, the law, which is expressed in general terms, is *interpreted* by the judiciary into specific terms.

Now in deciding whether the law means that John Doe

must be imprisoned, two things must be considered: One about John Doe, and one about the law. First, has John Doe done certain things? And secondly, if he has done those things, are those things what the law means by burglary? The second question is a *question of law*;* and the first is a *question of fact.*

The courts which the state of Montana has established for deciding what the specific things are which the laws require to be done are of three grades: The justice or police court, the district court, and the supreme court.

The Justice Court.—Each county is divided by its board of commissioners into parts called townships.** In each of these townships the voters choose, at every general election, two justices of the peace and two constables. Each justice has his office at some place in the township, and must be always ready to hold court, except on Sundays and holidays.

Now a justice court is not empowered to try every sort of a case. The matters with which it is authorized to deal constitute its *jurisdiction.*

The jurisdiction of the justice court is limited in three ways: 1st, territorially; 2d, in respect to the interests involved; 3d, in relation to other courts. 1st, The jurisdiction of the justice court is limited territorially to the county. 2d, In civil matters the justice court can try ordinary cases where the value of the property in controversy does not exceed $300, and does not involve the title to real estate; in criminal matters the justice court can try persons charged with misdemeanors for which the law prescribes a penalty

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* There may be other questions of law, as, for example, "Has this law been altered or repealed?" "Is it in conflict with the constitution?" etc.

** This expression is very unfortunate. It has nothing to do with the word township as commonly used, but only means a sub-division of the county for election purposes. There is no such thing as "township government" in Montana.

of imprisonment for not more than six months or a fine of not more than $500, or both. 3d, The justice court cannot try cases that have already been tried in another court,—that is, it has only *original jurisdiction.*

It has already been said that, in a lawsuit, there may be two things in dispute,—the facts of the case, and the law which applies to the case. The question of law is always decided by the judge, who, in the justice court, is called the justice of the peace. Now it sometimes happens that there is no dispute about facts. Then all that is to be done is for the judge to decide what law applies to the case.

When the facts also are in dispute, the parties to the suit are very often willing to have the judge also decide the question of fact. But if either party to a civil suit, or the accused in a criminal case, desires, the questions of fact are submitted to a jury of not more than six men. Two-thirds of the jury must agree in order to render a verdict.

Examination.—If a person is accused of a crime for which the law prescribes as a penalty a fine of more than $500, or imprisonment for more than six months, the justice court does not have jurisdiction over the *trial* of the case. But the justice court may hold an *examination.* That is, the accused is brought before the justice court, and the evidence against him is examined. If it seems probable to the justice of the peace that the accused is guilty, or if the accused waives examination, the justice commits him to the custody of the sheriff, who keeps him in jail till time for his trial before the court that has jurisdiction. If the offense is legally bailable, however, the accused may be released on finding bondsmen who guarantee that he shall be on hand for trial at the proper time.

But if the evidence presented at the examination is not sufficient to make it seem probable to the justice that the

accused has committed a crime, the justice dismisses him at once. The object of the examination is to prevent, so far as possible, injustice being done to innocent persons by obliging them to stand trial on trivial grounds.

The Constable.—The executive officer who executes the decisions of the justice court is called a constable. There are two constables chosen by the voters of each township at every general election. Constables must attend the courts of justices of the peace within their township whenever required, and within their counties execute, serve and return all processes and notices directed or delivered to them by a justice of the peace. Their duties in respect to the preservation of the peace are the same as those of the sheriff.*

Police Court.—In every city and town there is a police court. The voters of the city elect a police judge every two years, at the city election. In towns the council designates one of the justices of the peace of the township in which the town is situated to act as a police judge.

The police court has very much the same jurisdiction as a justice court for the trial of persons charged with committing public offenses, and in addition has exclusive jurisdiction of all proceedings for violation of any city ordinance, and of all actions for the collection of money claimed to be due to or from the city.

The mayor nominates and, with the consent of the council, appoints a chief of police, who executes the decisions of the police court. In towns this officer is called the marshal.

District Court.—Courts of the next grade above the justice or police courts are district courts. The state is

* See page 76.

divided by the legislative assembly into districts,*—at present twelve. The voters of each district, every four years at the general election, elect a district judge,** who must be a lawyer, twenty-five years of age or older, who is a citizen of the United States and has resided in Montana at least a year.

In districts which consist of a single county, the district court is always in session at the county seat except on Sundays and holidays. In other districts, the judge holds court in turn at least four sessions a year at each county seat in his district.

We have seen that the justice court has only original jurisdiction. But the jurisdiction of the district court is both *original* and *appellate*. Either party to a civil suit, who is dissatisfied with the judgment of the justice or the police court may appeal to the district court within thirty days. A person convicted of a misdemeanor in a police or justice court may appeal to the district court within ten days.

The *original* jurisdiction of the district court extends to all criminal cases not in the jurisdiction of the justice or police court. In civil suits the district court has original jurisdiction wherever the matter in controversy exceeds $50 in value, or involves the title to real estate, or a question of marriage or divorce.

As in the justice court, so in the district court, questions of law are decided by the judge. Questions of fact may usually be decided by the judge, but either party to a suit

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* The 1st district consists of Lewis and Clarke county; 2d, Silver Bow county; 3d, Deer Lodge, Powell and Granite; 4th, Missoula and Ravalli; 5th, Beaverhead, Madison and Jefferson; 6th, Carbon, Park, and Sweet Grass; 7th, Custer, Dawson, Yellowstone and Rosebud; 8th, Cascade; 9th, Gallatin, Meagher and Broadwater; 10th, Fergus; 11th, Flathead and Teton; 12th, Chouteau and Valley.

** In the first district two judges are elected, and in the second district three.

may insist on a jury trial, and cases amounting to felony *must* be tried before a jury. A trial jury in the district court consists of twelve men. In cases of felony the jury must be unanimous in order to render a verdict, but in other cases two-thirds is sufficient.

There are two ways in which persons may be brought to trial for crime in the district court—by *information* and by *indictment.*

Information.—If a person has been examined by a justice of the peace, and committed to jail to await trial, or admitted to bail, an account of the proceedings at the examination is presented to the district court by the county attorney. This account is technically known as *information,* and forms the basis of the prosecution. This is the usual method when there are witnesses who are ready to come forward and give their testimony.

Indictment.—But a crime is sometimes committed when the only persons who know anything about the matter are disposed, for some reason, to keep it secret. Under such circumstances the only way the matter can be reached is for the judge to summon a *grand jury.* A grand jury consists of seven men, and may be summoned whenever a district judge thinks it necessary. The grand jury holds its sessions in secret, and can compel any persons to attend and answer any questions which may throw light upon the matter. If, as a result of their investigations, such evidence is collected that five or more of the grand jury believe the evidence would convict some particular person if presented to a trial jury, the grand jury *indict* that person. A warrant is then issued for that person's arrest, and he is brought before the court for trial on *indictment.*

Coroner's Inquest.—Another judicial process used in certain cases is a coroner's inquest. There is in each county

an officer called the coroner, whose duty it is to inquire into all cases where persons have died under such circumstances as to afford reasonable ground for suspicion that the death has been caused by criminal means. The coroner summons a jury of not more than nine persons, and as soon as six or more are present, they proceed to hold an inquest. They view the remains and examine any witnesses that may be available. On the basis of the evidence obtainable a verdict is rendered, and a written report of the testimony and the inquisition is preserved for use in case a criminal trial should follow. If the jury find that a known person has committed a crime causing the death, the coroner orders the person to be arrested and taken before the nearest magistrate for examination.

The object of the coroner's inquest is to secure promptly evidence which would be destroyed by the removal and burial of the dead body, or which could not readily be obtainable after a little time had elapsed. If the office of coroner is vacant, or he is absent or unable to attend, the duties of his office may be discharged by any justice of the peace in the county.

Probate Matters.—In some states there are separate courts known as probate courts. These courts deal chiefly with the property left by deceased persons, deciding to whom it should belong, and the guardianship of orphans and sometimes of insane and other incapable persons. But in Montana the district courts have jurisdiction in all probate matters. The voters of each county select at every general election a public administrator, who takes charge of the estates of persons dying in the county without heirs or administrators, and of such other estates as may be ordered into his hands by the court.

Equity.—Laws are usually made to fit general cases.

But cases sometimes arise for which no particular law has provided. All that a court can do in such cases is to decide what is just and fair to both parties. Such cases are called *cases in equity*, to distinguish them from cases at law. In England, courts distinct from the law courts have existed, to try cases in equity. But in this country the two functions are commonly united, and in Montana the district courts are courts of both law and equity.

Sometimes if it is not convenient for the district judge to try a civil case promptly, it may be tried by any lawyer in the state whom the two parties to the suit select.

The Sheriff.—The voters of each county, at every general election, choose a sheriff to enforce the decisions of the district court. The preservation of the peace of the county is committed to the sheriff. It is his duty to prevent or suppress affrays, breaches of the peace, riots and insurrections. He must arrest and take before the nearest magistrate for examination all persons who commit or attempt to commit a public offense. He must attend all sessions of the district court in the county, and carry out all orders of the court. In order to accomplish his duties he may call upon as many male inhabitants of the county as he needs, and they are compelled to assist him, and if this is insufficient, he may call upon the governor of the state for the aid of the state militia. The sheriff is also required to serve all writs, warrants, summons and other papers or orders required to be served in any proceeding before any court, board or officer of the county. He is also the keeper of the county jail and of the prisoners committed to it.

In any case in which the sheriff himself is a party to the action or proceeding, the coroner acts as sheriff, unless the

coroner also happens to be a party. In such case the court would temporarily appoint an officer called an elisor.

County Attorney.—At every general election, also, the voters of each county elect a county attorney. It is his business to attend the district court in his county, and conduct all prosecutions for public offenses. He must institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses. He must draw all indictments and informations, defend all suits brought against the county, prosecute all recognizances forfeited in the courts, and all actions for the recovery of debts, fines, penalties and forfeitures accruing to the county or the state. He must attend the meetings of the board of county commissioners when required, and give legal advice to the commissioners and to all county and district officers on matters pertaining to the duties of their respective offices.

Clerk of the District Court.—Every four years the voters of each county choose a clerk of the district court. He is required to attend all sessions of the district court in his county and keep complete records of all the proceedings of the court. It is for this reason that the district court is known as a *court of record*. It is because the justice court is not a court of record, that it is not given jurisdiction in any case involving the title to real estate. The clerk of the district court also takes charge of all books and papers filed in his office, and issues all processes and notices required to be issued. It is also his duty to issue marriage licenses, and to keep a record of licenses issued and of certificates of marriages solemnized in the county.

The Supreme Court.—The highest court of appeal in the state is the supreme court. Cases tried in any district court in the state may be brought on appeal to the supreme

court. This court consists of a chief justice and two associate justices, elected by the voters of the state for the terms of six years. They must be lawyers, at least thirty years old, citizens of the United States, who have resided in Montana at least two years. One justice is chosen at every general election, so that their terms all expire at different times.* The supreme court holds four sessions each year, always at the state capital. The three justices do not hold separate sessions, but all sit together, and when they do not all agree, the opinion of two is decisive.

As the supreme court is considerably behind in its business, the Eighth Legislative Assembly provided for the appointment by the supreme court of three commissioners to serve for four years, to assist the court in disposing of the numerous causes pending in the court.

Officers of the Supreme Court.—The executive officer of the supreme court is a marshal, chosen by the supreme court to hold office at their pleasure. The records of the supreme court are kept by the clerk of the supreme court, elected by the voters of the state for a term of six years, at the same time as the chief justice.

Attorney General.—The attorney general, chosen by the voters of the state every four years at the general election, is required to attend all sessions of the supreme court, and prosecute or defend all causes to which the state or any officer thereof in his official capacity is a party, and causes to which any county is a party unless the interest of the county is adverse to that of the state.

Reports.—The decisions of the supreme court are all reported by the justices, and printed in a series of volumes known as the "Montana Reports." These reports serve

* The chief justice is elected in the years 1898, 1904, etc.

to guide the judges in the lower courts in deciding similar cases which may come before them.

Salaries.—The salaries of the district judges as well as of all persons connected with the supreme court are paid by the state. The amounts are as follows: Justices and commissioners of the supreme court, each $4,000 per year; clerk of the supreme court, $2,000; marshal of the supreme court, $4 for each day's actual attendance upon the supreme court; district judges, each $3,500 per year. Both the district and supreme courts are entitled to appoint one stenographer for each, whose salaries are each $1,800 per year. The stenographer of the supreme court is paid from the state treasury; in the district courts the pay is apportioned among the counties comprising the district. The justices of the supreme court also receive each $1,500 per year for reporting their decisions.

Impeachment.—One other piece of judicial machinery is provided by the state, though fortunately no occasion has yet arisen for its use. That is the court of impeachment. All state, executive and judicial officers, except justices of the peace, are subject to impeachment for high crimes or misdemeanors or malfeasance in office.

The sole power of impeachment vests in the house of representatives. When an officer has been impeached by the house of representatives, he is tried before the senate, sitting as a court of impeachment. If two-thirds of the senators agree in finding him guilty he is convicted—otherwise he is acquitted. When the senate tries the governor or lieutenant-governor, the chief justice of the supreme court presides. When a person is convicted on impeachment he is either suspended or permanently removed from office or disqualified from holding any office under the state, according to the judgment of the senate.

CHAPTER XI.

EDUCATION.

The School District.—For school purposes the county is divided by the board of commissioners into school districts, designated by numbers. (New districts may be established on petition of residents, by the county superintendent, subject to appeal to the board of commissioners.) Every school district is a body corporate, and may sue and be sued, contract, purchase, hold and use personal or real property for school purposes, and may sell the same. All districts having a population of 12,000 or more are districts of the first class, those with a population of from 1,000 to 12,000 are districts of the second class, and others are districts of the third class. The government of the school districts is chiefly representative, and is in the hands of a board of trustees consisting of seven in districts of the first class, five in districts of the second class, and three in districts of the third class. The trustees are elected by the voters of the district for terms of three years, and as nearly as possible the terms of one-third expire each year. The election is held at the school house on the first Saturday of April each year, under substantially similar arrangements as those for county elections, except that no registration is required in districts of the second and third classes. At these elections all citizens of the United States, male or female, twenty-one years old or more, who have resided in the state one year and in the district thirty days

may vote, and are eligible to the office of trustee. The board holds its annual meeting on the third Saturday of April, and other regular meetings on the third Saturdays of July, October and January. In districts of the first class regular meetings are held every month. The trustees choose one of their number chairman, and some other person clerk. The county treasurer is treasurer of all the school districts in his county. If a vacancy occurs in the board of trustees, the county superintendent appoints some one to fill the vacancy. The trustees have charge of the building or renting and repairing and furnishing of school houses, the employing of teachers and laborers, the fixing of their pay and that of the clerk, the general arrangement of courses of study, subject to the approval of the county superintendent; they establish rules for the government of the schools and enforce rules prescribed by the superintendent of public instruction, and manage the school libraries.

County High Schools.—Whenever 100 freeholders in any county petition the board of county commissioners to establish a county high school at some certain place in the county, the question is submitted by the board to a vote of the electors of the county at a special election. If the vote is favorable to the establishment of such a high school, the county board of commissioners appoints six resident tax-payers of the county (of whom three must be residents of the township where the school is to be located), who, together with the county superintendent, constitute a county high school board. Thereafter the trustees are elected by the school electors of the county at the regular school election. These trustees are elected for two years, and the terms of one-half expire each year on the third Saturday of April. The trustees organize by choosing a president and a secretary from among their own

number. This board has power to erect and equip a building, employ teachers and establish courses of study.

County Superintendent.—Any person qualified to vote at a school election is eligible to the office of county superintendent.* It is the superintendent's duty to have the general supervision of the public schools of the county. He visits the schools, advises the teachers, counsels with the trustees, decides matters in controversy in the administration of school law, holds teachers' institutes of from three to ten days each year, selects persons to instruct therein, and presides at the sessions, conducts teachers' examinations, and issues certificates to those who pass the examinations, and apportions all school moneys to the different districts in the county.

Teachers' Certificates.—To be a public school teacher, one must be eighteen years of age or older, and must have certain evidences of qualification. Such evidence may be any one of four things: (1) a certificate of having passed an examination before the county superintendent; (2) a temporary permit from the county superintendent; (3) a diploma from the State Normal College; or (4) a diploma from the State Board of Education.

(1) County Certificates. County examinations are held on the last Friday of February, April, August and November and the day following. The questions are prepared and the regulations prescribed by the State Superintendent of Public Instruction. The certificates are of four grades, known as professional, 1st, 2d and 3d grade. Third grade certificates are good only for one year, and are not issued more than twice to the same person. Second grade certificates are good for two years. Both 2d and 3d grade

* The legislative assembly has passed a law requiring county superintendents to hold certain certificates, but as this law clearly violates Article IX, Section 11, of the constitution, it is of course void.

certificates are good only in the county where issued. First grade certificates are issued for three, and professional certificates for four years, and both are good as long as the holder continues teaching and gives good evidence of progress and efficiency. Examinations are given in the following subjects: penmanship, orthography, reading, writing, arithmetic, mental arithmetic, geography, grammar, physiology and hygiene, history of the United States, and theory and practice of teaching. In addition to these subjects, examinations for 2d grade certificates include civics of the United States and Montana, and physical geography. Candidates for 1st grade certificates must pass an examination in all subjects required for the 2d grade, and also in American literature and elementary algebra, and for a professional certificate to all these must be added physics and plane geometry.

First, second and third grade certificates do not entitle the holder to teach in a high school, or to be principal of a school of more than two departments. No professional or first grade certificate can be issued to any person who has not taught successfully for twelve months.

Special certificates, good for three years, may be issued in penmanship, drawing, modern languages or music, entitling the holder to teach only the subjects named. Persons who wish to teach in a public kindergarten must pass such examination as may be prescribed by the State Normal College.

(2) Temporary Permits. The county superintendent may grant a temporary certificate to teach till the next regular examination, to a person who can show satisfactory reasons for failing to attend a regular examination. Such a temporary certificate cannot be granted but once to the same person, except that, where it is impossible for such

person to attend the next regular examination, the superintendent of public instruction may, on application, authorize the county superintendent to issue a second permit, or he may require the applicant to take a private examination.

(3) Diploma from the State Normal College. All graduates of the Montana State Normal College are entitled to teach in any public school in the state, without further examination, for a term of three years after such graduation.

(4) Diplomas from the State Board of Education. (a) State diplomas, valid for six years, are issued to persons who have held for one year first grade certificates, and pass an examination in English literature and mental philosophy, if they have successfully taught five years, of which not less than twenty-one months has been in the public schools of Montana. State diplomas are sometimes granted without examination to experienced teachers who are graduates of institutions of higher education, or who hold diplomas in other states. (b) Life diplomas are granted, 1st, to all graduates of the four years' course of the Montana State Normal College who have taught successfully in the public schools of the state for one year; 2d, to graduates of the University of Montana or of the three years' course of the State Normal College who have taught successfully in the public schools of the state for two years; 3d, to experienced teachers who are graduates of other institutions of higher education or who hold life diplomas in other states; 4th, to persons who have held first grade certificates for one year, and have taught successfully for ten years, including at least twenty-one months in the public schools of Montana, and who pass an examination in botany, geology, political economy, zoology and general history.

Duties of Teachers.—The duty of the school teacher

is described in the law as being chiefly to enforce in school the course of study and regulations, and to "endeavor to impress on the minds of their pupils the principles of morality, truth, justice and patriotism; to teach them to avoid idleness, profanity and falsehood, and to instruct them in the principles of a free government, and to train them up to a true comprehension of the rights, duties and dignity of American citizenship."

Teachers are cautioned to refrain from undue severity in punishment, they must not act as agent for the sale of any school books or appliances, they must not teach any sectarian or denominational doctrine, and must not leave school before the expiration of their contracts, without the written consent of the trustees. They are required to keep a daily register on blanks furnished by the superintendent of public instruction, and to make an annual report to the county superintendent, by the 10th of September, and such additional reports as may be required by the superintendent of public instruction.

Teachers are empowered to hold pupils accountable in school for conduct on the way to school or during the intermission. Teachers may suspend any pupil for good cause. They may appeal to the county superintendent if dismissed before the expiration of their contracts. They are entitled to the protection of the law against insult or abuse about the school premises, and they cannot be required to teach on a legal holiday.

Text-Books.—A uniform set of text-books for the public schools is prescribed by the state board of text-book commissioners. Where a majority of the votes cast at a school election in any district are in favor of free text-books, it is the duty of the trustees to purchase books to

be loaned to pupils, and if necessary, a special tax may be levied for the purpose.

School Libraries.—From five to ten per cent. of the county school fund apportioned to each district must be devoted to a school library, except that the total amount in any district of less than two thousand inhabitants must not exceed $50 in one year. In larger districts the amount may be not more than $50 for every five hundred children.

School Finance.—For the support of public schools the government of the United States has ceded to the state of Montana the sixteenth and thirty-sixth section of every township—that is to say, one-eighteenth of all the land in the state of Montana. These lands may be leased for not more than five years at a time, or sold for not less than ten dollars per acre. The government of the United States also gives to the state five per cent. of the proceeds of the sales of public lands in the state. This money, together with the proceeds of the sale of school lands sold by the state, is invested, and the interest thereon, together with the money received from leases of school lands, is distributed to the different counties in the proportion which the number of children of school age*—that is, between the ages of six and twenty-one—in a county bears to the whole number of such children in the state. Each county levies a tax of two mills on each dollar of taxable property in the county. This tax, together with the apportionment from the state school fund just mentioned, and all fines paid into the county treasury, and the money which the county realizes from the inheritance tax, constitutes

* Persons between the ages of six and twenty-one have a right to attend school, but the law *requires* regular attendance as long as school is in session, on the part of all healthy children between eight and fourteen years of age, and also those between the ages of fourteen and sixteen who are unable to read and write the English language and are not regularly employed. The law forbids altogether the employment, in school hours, of any child under fourteen, unless he has completed the common school course.

the county school fund. This is apportioned every year by the county superintendent to the different districts of the county in the proportion which the number of children of school age in the district bears to the whole number of such children in the county.

Special Tax.—If any district needs more money than this, the trustees of the district certify to the board of county commissioners the number of mills (not exceeding five) which it is necessary to levy on each dollar of taxable property in the district, and the board of commissioners causes this to be levied (only on the property in that particular district), and collected along with the other taxes and set apart for the use of the district.

School Bonds.—To build and furnish school houses and to purchase land for them, district boards of trustees may issue bonds bearing not more than six per cent. interest, for an amount not greater than three per cent. of the value of taxable property in the district, and in no case exceeding $251,000. But the plan must first be approved by a majority of the votes cast at a special election held in the district for the purpose of considering the matter. When bonds have been issued in any district, the county board of commissioners must, every year, levy a special tax on the property in the district sufficient to pay the interest on the bonds and to provide a sinking fund sufficient to redeem the bonds at maturity.

Support of High School.—To meet the expenses of a county high school, the board of county commissioners, in every county in which there is such a high school, must levy every year such a tax, not exceeding three mills on each dollar of taxable property in the county, as the school board may consider necessary. But the tax may be as high as ten mills when a school building is to be erected. The

high school board may, however, issue bonds for not more than $100,000, to run not more than twenty years, to erect and equip a high school building and provide a site. But this question must first be submitted to a vote of the electors of the county, and if bonds are issued, the board of commissioners must levy such a tax every year as will suffice to pay the interest on the bonds and provide a sinking fund.

The control which the state exercises in the matter of education is chiefly through the superintendent of public instruction and the state board of education.

Superintendent of Public Instruction.—The superintendent of public instruction is one of the elected state officers already mentioned.* He has general supervision of the public schools throughout the state. He prepares their courses of study, he furnishes them with all necessary blanks, etc., for reports, he provides them with lists of approved books and rules for school libraries, and apportions the state school funds among the counties. He also prepares questions and prescribes rules for examinations for teachers' county certificates. He prescribes rules for holding teachers' institutes, and attends and assists at them. He sees to the printing of the school laws, furnishes copies of them to school officers, advises county superintendents, and decides appeals from their decisions.

State Board of Education.—The state board of education consists of the governor, the superintendent of public instruction, the attorney general and eight persons appointed by the governor with the consent of the senate for terms of four years, two being appointed each year. The board has general control and supervision of all the state educational institutions, grants diplomas to their graduates,

* Pages 56, 58.

receives from the state board of land commissioners or other sources, funds, incomes and other property to which they are entitled, and uses the same for the purposes of the grant. The board grants state and life diplomas, and appoints and commissions teachers to act as instructors in county institutes. The governor is the chairman and the superintendent of public instruction is the secretary of the board.

State Institutions.—The educational institutions maintained by the state are the University of Montana at Missoula, the Agricultural College of Montana at Bozeman, the Montana State Normal College at Dillon, the Montana State School of Mines at Butte, and the State School for the Deaf and Blind (with special provisions also for the instruction of feeble-minded children), at Boulder.* The State University is directly managed by the state board of education, but the immediate direction of the others, subject to the general supervision of the state board of education, is vested in separate boards of trustees for each institution. The trustees of the School for the Deaf and Blind are three in number, and for the other institutions five. The trustees of the School of Mines and of the School for the Deaf and Blind are elected by the state board of education, and those of the Agricultural College and the Normal College are appointed by the governor with the consent of the board of education.

Federal Aid.—The federal government has made liberal donations of public lands for the support of the state institutions. The amounts of these are:

University	46,080.48 acres.
Agricultural College	140,000 acres.

* Each of these institutions publishes an annual catalogue giving a great deal of information about the work of the institution. Every school ought to obtain and study these catalogues.

Normal College	100,000	acres.
School of Mines	100,000	acres.
School for the Deaf and Blind	50,000	acres.

Whenever any of these lands or the timber thereon are sold, the proceeds are invested, and the interest thereon, together with rentals received from such lands as are leased, is devoted to the maintenance of the respective institutions. The federal government also appropriates $25,000 per year in money for the expenses of the Agricultural College, and $15,000 for an agricultural experiment station at the Agricultural College. The rest of the expenses of all these institutions are met from appropriations made by the legislative assembly from the treasury of the state.

School Lands.—The leasing and sale of the school lands and the lands belonging to the educational and other institutions of the state* is in the hands of the state board of land commissioners, composed of the governor, the superintendent of public instruction, the secretary of state, and the attorney general. All records in connection with these lands are kept by the register of the state land office, an officer appointed by the governor. There is also a state land agent, appointed by the governor with the consent of the board of land commissioners, to select the lands granted to the state, attend to their conveyance to the state, and to oversee the cutting of timber thereon.

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* Besides the land grants already mentioned, the federal government has given the state 182,000 acres for building the capitol, and 50,000 acres for the reform school.

APPENDIX.

CONSTITUTION OF MONTANA.

Framed by the Convention held at Helena, July 4 Aug. 17, 1889. Ratified by the people, Oct. 1, 1889; in force, Nov. 8, 1889.

PREAMBLE.—We, the people of Montana, grateful to Almighty God for the blessings of liberty, in order to secure the advantages of a state government, do, in accordance with the provisions of the enabling act of congress, approved the twenty-second of February, A. D. 1889, ordain and establish this constitution.

ARTICLE I.

BOUNDARIES.

SECTION 1. The boundaries of the state of Montana shall be as follows, to-wit: Beginning at a point formed by the intersection of the twenty-seventh degree of longitude west from Washington with the forty-fifth degree of north latitude, thence due west on the forty-fifth degree of latitude to a point formed by its intersection with the thirty-fourth degree of longitude west from Washington, thence due south along the thirty-fourth degree of longitude, to a point formed by its intersection with the crest of the Rocky Mountains, thence following the crest of the Rocky Mountains northward to its intersection with the Bitter Root Mountains; thence northward along the crest of the Bitter Root Mountains, to its intersection with the thirty-ninth degree of longitude west from Washington; thence along the thirty-ninth degree of longitude northward to the boundary line of the British Possessions; thence eastward along that boundary line to the twenty-seventh degree of longitude west from Washington; thence southward along the twenty-seventh degree of longitude to the place of beginning.

ARTICLE II.

MILITARY RESERVATIONS.

SECTION 1. Authority is hereby granted to and acknowledged in the United States to exercise exclusive legislation as provided by the constitution of the United States, over the military reservations of Fort Assinaboine, Fort Custer, Fort Keogh, Fort Maginnis, Fort Missoula and Fort Shaw, as now established by law, so long as said places remain military reservations, to the same extent and with the same effect as if said reservations had been purchased by the United States by consent of the legislative assembly of the state of Montana; and the legislative assembly is authorized and directed to enact any law necessary or proper to give effect to this article.

Provided, That there be and is hereby reserved to the state the right to serve all legal process of the state, both civil and criminal, upon persons and property found within any of said reservations in all cases where the United States has not exclusive jurisdiction.

ARTICLE III.

A DECLARATION OF RIGHTS OF THE PEOPLE OF THE STATE OF MONTANA.

SECTION 1. All political power is vested in and derived from the people; all government of right originates with the people; is founded upon their will only and is instituted solely for the good of the whole.

SEC. 2. The people of the state have the sole and exclusive right of governing themselves, as a free, sovereign and independent state, and to alter and abolish their constitution and form of government, whenever they may deem it necessary to their safety and happiness, provided such change be not repugnant to the constitution of the United States.

SEC. 3. All persons are born equally free, and have certain natural, essential and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties, of acquiring, possessing and protecting property, and of seeking and obtaining their safety and happiness in all lawful ways.

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever hereafter be guaranteed, and no person shall be denied any civil or political right

or privilege on account of his opinions concerning religion, but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, by bigamous or polygamous marriage, or otherwise, or justify practices inconsistent with the good order, peace or safety of the state, or opposed to the civil authority thereof, or of the United States. No person shall be required to attend any place of worship or support any ministry, religious sect or denomination, against his consent; nor shall any preference be given by law to any religious denomination or mode of worship.

SEC. 5. All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

SEC. 6. Courts of justice shall be open to every person, and a speedy remedy afforded for every injury of person, property or character; and that right and justice shall be administered without sale, denial or delay.

SEC. 7. The people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures, and no warrant to search any place or seize any person or thing, shall issue without describing the place to be searched, or the person or thing to be seized, nor without probable cause, supported by oath or affirmation, reduced to writing.

SEC. 8. Criminal offenses of which justices courts and municipal and other courts, inferior to the district courts, have jurisdiction, shall, in all courts inferior to the district court, be prosecuted by complaint. All criminal actions in the district court, except those on appeal, shall be prosecuted by information, after examination and commitment, by a magistrate, or after leave granted by the court, or shall be prosecuted by indictment without such examination or commitment, or without such leave of the court. A grand jury shall consist of seven persons, of whom five must concur to find an indictment.

A grand jury shall only be drawn and summoned when the district judge shall in his discretion consider it necessary, and shall so order.

SEC. 9. Treason against the state shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on his con-

fession in open court; no person shall be attainted of treason or felony by the legislative assembly; no conviction shall work corruption of blood or forfeiture of estate; the estates of persons who may destroy their own lives shall descend or vest as in cases of natural death.

SEC. 10. No law shall be passed impairing the freedom of speech; every person shall be free to speak, write or publish whatever he will on any subject, being responsible for all abuse of that liberty; and that in all suits and prosecutions for libel, the truth thereof may be given in evidence; and the jury, under the direction of the court, shall determine the law and the facts.

SEC. 11. No ex post facto law, nor law impairing the obligation of contracts, or making any irrevocable grant of special privileges, franchises or immunities shall be passed by the legislative assembly.

SEC. 12. No person shall be imprisoned for debt except in the manner prescribed by law, upon refusal to deliver up his estate for the benefit of his creditors, or in cases of tort, where there is strong presumption of fraud.

SEC. 13. The right of any person to keep or bear arms in defense of his own home, person and property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but nothing herein contained shall be held to permit the carrying of concealed weapons.

SEC. 14. Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into court for the owner.

SEC. 15. The use of all water now appropriated, or that may hereafter be appropriated for sale, rental, distribution or other beneficial use and the right of way over the lands of others, for all ditches, drains, flumes, canals and aqueducts, necessarily used in connection therewith, as well as the sites for reservoirs necessary for collecting and storing the same, shall be held to be a public use. Private roads may be opened in the manner to be prescribed by law, but in every case the necessity of the road, and the amount of all damage to be sustained by the opening thereof, shall be first determined by a jury, and such amount together with the expenses of the proceeding shall be paid by the person to be benefited.

SEC. 16. In all criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses

against him face to face; to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, subject to the right of the state to have a change of venue for any of the causes for which the defendant may obtain the same.

SEC. 17. No person shall be imprisoned for the purpose of securing his testimony in any criminal proceeding longer than may be necessary in order to take his deposition. If he can give security for his appearance at the time of trial he shall be discharged upon giving the same; if he cannot give security, his deposition shall be taken in the manner prescribed by law, and in the presence of the accused and his counsel, or without their presence, if they shall fail to attend the examination after reasonable notice of the time and place thereof. Any deposition authorized by this section may be received as evidence on the trial, if the witness shall be dead or absent from the state.

SEC. 18. No person shall be compelled to testify against himself, in a criminal proceeding, nor shall any person be twice put in jeopardy for the same offense.

SEC. 19. All persons shall be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great.

SEC. 20. Excessive bail shall not be required, or excessive fines imposed, or cruel and unusual punishments inflicted.

SEC. 21. The privilege of the writ of habeas corpus shall never be suspended, unless, in case of rebellion, or invasion, the public safety require it.

SEC. 22. The military shall always be in strict subordination to the civil power; no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.

SEC. 23. The right of trial by jury shall be secured to all, and remain inviolate, but in all civil cases and in all criminal cases not amounting to felony, upon default of appearance or by consent of the parties expressed in such manner as the law may prescribe, a trial by jury may be waived, or a trial had by any less number of jurors than the number provided by law. A jury in a justice's court both in civil cases and in cases of criminal misdemeanor shall consist of not more than six persons. In all civil actions and in all

criminal cases not amounting to felony, two-thirds in number of the jury may render a verdict, and such verdict so rendered shall have the same force and effect as if all of such jury concurred therein.

SEC. 24. Laws for the punishment of crime shall be founded on the principles of reformation and prevention, but this shall not affect the power of the legislative assembly to provide for punishing offenses by death.

SEC. 25. Aliens and denizens shall have the same right as citizens to acquire, purchase, possess, enjoy, convey, transmit and inherit mines and mining property, and milling, reduction, concentrating and other works, and real property necessary for or connected with the business of mining and treating ores and minerals; *Provided,* That nothing herein contained shall be construed to infringe upon the authority of the United States to provide for the sale or disposition of its mineral and other public lands.

SEC. 26. The people shall have the right peaceably to assemble for the common good, and to apply to those invested with the powers of government for redress of grievances by petition or remonstrance.

SEC. 27. No person shall be deprived of life, liberty, or property without due process of law.

SEC. 28. There shall never be in this state either slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted.

SEC. 29. The provisions of this constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

SEC. 30. The enumeration in this constitution of certain rights, shall not be construed to deny, impair or disparage others retained by the people.

SEC. 31. No armed person or persons or armed body of men shall be brought into this state for the preservation of the peace or the suppression of domestic violence, except upon the application of the legislative assembly or of the governor when the legislative assembly cannot be convened.

ARTICLE IV.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government of this state are divided into three distinct departments: The legislative, executive,

and judicial, and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments shall exercise any powers properly belonging to either of the others, except as in this constitution expressly directed or permitted.

ARTICLE V.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power shall be vested in a senate and house of representatives, which shall be designated "The Legislative Assembly of the State of Montana."

SEC. 2. Senators shall be elected for the term of four years, and representatives for the term of two years, except as otherwise provided in this constitution.

SEC. 3. No person shall be a representative who shall not have attained the age of twenty-one years, or a senator who shall not have attained the age of twenty-four years, and who shall not be a citizen of the United States, and who shall not (for at least twelve months next preceding his election) have resided within the county or district in which he shall be elected.

SEC. 4. The legislative assembly of this state, until otherwise provided by law, shall consist of sixteen members of the senate, and fifty-five members of the house of representatives.

It shall be the duty of the first legislative assembly to divide the state into senatorial and representative districts, but there shall be no more than one senator from each county. The senators shall be divided into two classes. Those elected from odd numbered districts shall constitute one class, and those elected from even numbered districts shall constitute the other class; and when any additional senator shall be provided for by law his class shall be determined by lot.

One-half of the senators elected to the first legislative assembly shall hold office for one year, and the other half for three years; and it shall be determined by lot immediately after the organization of the senate whether the senators from the odd or even numbered districts shall hold for one or three years.

SEC. 5. Each member of the first legislative assembly, as a compensation for his services shall receive six dollars for each day's attendance and twenty cents for each mile necessarily traveled

in going to and returning from the seat of government to his residence by the usually traveled route, and shall receive no other compensation, perquisite or allowance whatsoever.

No session of the legislative assembly, after the first, which may be ninety days, shall exceed sixty days.

After the first session, the compensation of the members of the legislative assembly shall be as provided by law; *Provided,* That no legislative assembly shall fix its own compensation.

SEC. 6. The legislative assembly (except the first) shall meet at the seat of government at twelve o'clock, noon, on the first Monday of January, next succeeding the general election provided by law, and at twelve o'clock, noon, on the first Monday of January, of each alternate year thereafter, and at other times when convened by the governor.

The term of service of the members thereof shall begin the next day after their election, until otherwise provided by law; *Provided,* That the first legislative assembly shall meet at the seat of government upon the proclamation of the governor after the admission of the state into the union, upon a day to be named in said proclamation, and which shall not be more than fifteen nor less than ten days after the admission of the state into the union.

SEC. 7. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office under the state; and no member of congress, or other person holding an office (except notary public, or in the militia) under the United States or this state, shall be a member of either house during his continuance in office.

SEC. 8. No member of either house shall, during the term for which he shall have been elected, receive any increase of salary or mileage under any law passed during such term.

SEC. 9. The senate shall, at the beginning and close of each regular session, and at such other times as may be necessary, elect one of its members president, *pro tempore.* The house of representatives shall elect one of its members speaker. Each house shall choose its other officers, and shall judge of the elections, returns, and qualifications of its members.

SEC. 10. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each house may prescribe.

SEC. 11. Each house shall have power to determine the rules of its proceedings, and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence or offers of bribe or private solicitation, and with the concurrence of two-thirds, to expel a member, and shall have all other powers necessary for the legislative assembly of a free state.

A member expelled for corruption shall not thereafter be eligible to either house of the legislative assembly; and punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

SEC. 12. Each house shall keep a journal of its proceedings and may, in its discretion, from time to time, publish the same, except such parts as require secrecy, and the ayes and noes on any question, shall, at the request of any two members, be entered on the journal.

SEC. 13. The sessions of each house and of the committees of the whole shall be open unless the business is such as requires secrecy.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 15. The members of the legislative assembly shall, in all cases, except treason, felony, violation of their oath of office and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 16. The sole power of impeachment shall vest in the house of representatives; the concurrence of a majority of all the members being necessary to the exercise thereof. Impeachment shall be tried by the senate sitting for that purpose and the senators shall be upon oath or affirmation to do justice according to law and evidence. When the governor or lieutenant-governor is on trial, the chief justice of the supreme court shall preside. No person shall be convicted without a concurrence of two-thirds of the senators elected.

SEC. 17. The governor and other state and judicial officers, except justices of the peace, shall be liable to impeachment for high crimes and misdemeanors, or malfeasance in office, but judgment in

such cases shall only extend to removal from office and disqualification to hold any office of honor, trust or profit under the laws of the state. The party whether convicted or acquitted shall, nevertheless, be liable to prosecution, trial, judgment and punishment according to law.

SEC. 18. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance in office, in such manner as may be provided by law.

SEC. 19. No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

SEC. 20. The enacting clause of every law shall be as follows: "Be it enacted by the Legislative Assembly of the State of Montana."

SEC. 21. No bill for the appropriation of money, except for the expenses of the government, shall be introduced within ten days of the close of the session, except by unanimous consent of the house in which it is sought to be introduced.

SEC. 22. No bill shall be considered or become a law unless referred to a committee, returned therefrom and printed for the use of the members.

SEC. 23. No bill, except general appropriation bills, and bills for the codification and general revision of the laws, shall be passed containing more than one subject which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

SEC. 24. No bill shall become a law except by a vote of a majority of all the members present in each house, nor unless on its final passage, the vote be taken by ayes and noes, and the names of those voting be entered on the journal.

SEC. 25. No law shall be revised or amended, or the provisions thereof extended by reference to its title only, but so much thereof as is revised, amended or extended shall be re-enacted and published at length.

SEC. 26. The legislative assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: For granting divorces; laying out, opening, altering or working roads or highways; vacating roads, town plats, streets, alleys or public grounds; locating or changing county seats; regulating county or

township affairs; regulating the practice in courts of justice; regulating the jurisdiction and duties of justices of the peace, police magistrates or constables; changing the rules of evidence in any trial or inquiry; providing for changes of venue in civil or criminal cases; declaring any person of age; for limitation of civil actions, or giving effect to informal or invalid deeds; summoning or impaneling grand or petit juries; providing for the management of common schools; regulating the rate of interest on money; the opening or conducting of any election or designating the place of voting; the sale or mortgage of real estate belonging to minors or others under disability; chartering or licensing ferries or bridges or toll roads; chartering banks, insurance companies and loan and trust companies; remitting fines, penalties or forfeitures; creating, increasing or decreasing fees, percentages or allowances of public officers; changing the law of descent; granting to any corporation, association or individual the right to lay down railroad tracks, or any special or exclusive privilege, immunity or franchise whatever; for the punishment of crimes; changing the names of persons or places; for the assessment or collection of taxes; affecting estates of deceased persons, minors or others under legal disabilities; extending the time for the collection of taxes; refunding money paid into the state treasury; relinquishing or extinguishing in whole or in part the indebtedness, liability or obligation of any corporation or person to this state, or to any municipal corporation therein; exempting property from taxation; restoring to citizenship persons convicted of infamous crimes; authorizing the creation, extension or impairing of liens; creating offices, or prescribing the powers or duties of officers in counties, cities, townships or school districts; or authorizing the adoption or legitimation of children. In all other cases where a general law can be made applicable, no special law shall be enacted.

SEC. 27. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the legislative assembly immediately after their titles have been publicly read, and the fact of signing shall be at once entered upon the journal.

SEC. 28. The legislative assembly shall prescribe by law, the number, duties and compensation of the officers and employes of each house; and no payment shall be made from the state treasury,

or be in any way authorized to any such person, except to an acting officer or employe elected or appointed in pursuance of law.

SEC. 29. No bill shall be passed giving any extra compensation to any public officer, servant or employe, agent or contractor, after services shall have been rendered or contract made, nor providing for the payment of any claim made against the state without previous authority of law, except as may be otherwise provided herein.

SEC. 30. All stationery, printing, paper, fuel and lights used in the legislative and other departments of government, shall be furnished, and the printing, and binding and distribution of the laws, journals, and department reports and other printing and binding, and the repairing and furnishing the halls and rooms used for the meeting of the legislative assembly, and its committees shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price and under such regulations as may be prescribed by law. No member or officer of the government shall be in any way interested in any such contract; and all such contracts shall be subject to the approval of the governor and state treasurer.

SEC. 31. Except as otherwise provided in this constitution, no law shall extend the term of any public officer, or increase or diminish his salary or emolument after his election or appointment; *Provided*, That this shall not be construed to forbid the legislative assembly from fixing the salaries or emoluments of those officers first elected or appointed under this constitution, where such salaries or emoluments are not fixed by this constitution.

SEC. 32. All bills for raising revenue shall originate in the house of representatives; but the senate may propose amendments, as in the case of other bills.

SEC. 33. The general appropriation bills shall embrace nothing but appropriations for the ordinary expenses of the legislative, executive and judicial departments of the state, interest on the public debt and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

SEC 34. No money shall be paid out of the treasury except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof, except interest on the public debt.

SEC. 35. No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation

or community not under the absolute control of the state, nor to any denominational or sectarian institution or association.

SEC. 36. The legislative assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvements, money, property or effects, whether held in trust or otherwise, or to levy taxes, or to perform any municipal functions whatever.

SEC. 37. No act of the legislative assembly shall authorize the investment of trust funds by executors, administrators, guardians or trustees in the bonds or stock of any private corporation.

SEC. 38. The legislative assembly shall have no power to pass any law authorizing the state, or any county in the state, to contract any debt or obligation in the construction of any railroad, nor give or loan its credit to or in aid of the construction of the same.

SEC. 39. No obligation or liability of any person, association or corporation, held or owned by the state, or any municipal corporation therein, shall ever be exchanged, transferred, remitted, released or postponed, or in any way diminished by the legislative assembly; nor shall such liability or obligation be extinguished, except by the payment thereof into the proper treasury.

SEC. 40. Every order, resolution or vote, in which the concurrence of both houses may be necessary, except on the question of adjournment, or relating solely to the transaction of the business of the two houses, shall be presented to the governor, and before it shall take effect be approved by him, or, being disapproved, be repassed by two-thirds of both houses, as prescribed in the case of a bill.

SEC. 41. If any person elected to either house of the legislative assembly shall offer or promise to give his vote or influence in favor of or against any measure or proposition, pending or proposed to be introduced into the legislative assembly, in consideration or upon condition that any other person elected to the same legislative assembly will give, or will promise or assent to give, his vote or influence, in favor of or against any other measure or proposition pending or proposed to be introduced into such legislative assembly, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the legislative assembly shall give his vote or influence for or against any measure or proposition pending or proposed to be introduced in such legislative assembly, or offer, promise or assent so to, upon condition that any

other member will give, or will promise or assent to give his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced in such legislative assembly, or in consideration that any other member hath given his vote or influence for or against any other measure or proposition in such legislative assembly, he shall be deemed guilty of bribery, and any member of the legislative assembly, or person elected thereto, who shall be guilty of either such offenses, shall be expelled and shall not thereafter be eligible to the legislative assembly, and on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

SEC. 42. Any person who shall directly or indirectly offer, give or promise any money or thing of value, testimonial, privilege or personal advantage, to any executive or judicial officer or member of the legislative assembly, to influence him in the performance of any of his official or public duties, shall be deemed guilty of bribery, and be punished in such manner as shall be provided by law.

SEC. 43. The offense of corrupt solicitation of members of the legislative assembly, or of public officers of the state, or of any municipal division thereof, and the occupation or practice of solicitation of such members or officers, to influence their official action, shall be defined by law, and shall be punishable by fine and imprisonment.

SEC. 44. A member who has a personal or private interest in any measure or bill proposed or pending before the legislative assembly shall disclose the fact to the house of which he is a member, and shall not vote thereon.

SEC. 45. When vacancies occur in either house the governor or the person exercising the functions of the governor shall issue writs of election to fill the same.

ARTICLE VI.

APPORTIONMENT AND REPRESENTATION.

SECTION 1. One representative in the congress of the United States shall be elected from the state at large, the first Tuesday in October, 1889, and thereafter at such times and places, and in such manner as may be prescribed by law. When a new apportionment shall be made by congress the legislative assembly shall divide the state into congressional districts accordingly.

SEC. 2. The legislative assembly shall provide by law for an enumeration of the inhabitants of the state in the year 1895 and every tenth year thereafter; and at the session next following such enumeration, and also at the session next following an enumeration made by the authority of the United States, shall revise and adjust the apportionment for representatives on the basis of such enumeration according to ratios to be fixed by law.

SEC. 3. Representative districts may be altered from time to time as public convenience may require. When a representative district shall be composed of two or more counties, they shall be contiguous, and the districts as compact as may be. No county shall be divided in the formation of representative districts.

SEC. 4. Whenever new counties are created, each of said counties shall be entitled to one senator, but in no case shall a senatorial district consist of more than one county.

SEC. 5. The senatorial districts of the state shall be constituted and numbered as follows:

The county of Beaverhead shall constitute the First district, and be entitled to one senator.

The county of Madison shall constitute the Second district, and be entitled to one senator.

The county of Gallatin shall constitute the Third district, and be entitled to one senator.

The county of Jefferson shall constitute the Fourth district, and be entitled to one senator.

The county of Deer Lodge shall constitute the Fifth district, and be entitled to one senator.

The county of Missoula shall constitute the Sixth district, and be entitled to one senator.

The county of Lewis and Clarke shall constitute the Seventh district, and be entitled to one senator.

The county of Chouteau shall constitute the Eighth district, and be entitled to one senator.

The county of Meagher shall constitute the Ninth district, and be entitled to one senator.

The county of Silver Bow shall constitute the Tenth district, and be entitled to one senator.

The county of Custer shall constitute the Eleventh district, and be entitled to one senator.

The county of Yellowstone shall constitute the Twelfth district, and be entitled to one senator.

The county of Dawson shall constitute the Thirteenth district, and be entitled to one senator.

The county of Fergus shall constitute the Fourteenth district, and be entitled to one senator.

The county of Park shall constitute the Fifteenth district, and be entited to one senator.

The county of Cascade shall constitute the Sixteenth district, and be entitled to one senator.

SEC. 6. Until an apportionment of representatives be made in accordance with the provisions of this article, they shall be divided among the several counties of the state in the following manner:

The county of Beaverhead shall have two (2).

The county of Madison shall have two (2).

The county of Gallatin shall have two (2).

The county of Jefferson shall have three (3).

The county of Deer Lodge shall have seven (7).

The county of Missoula shall have five (5).

The county of Lewis and Clarke shall have eight (8).

The county of Chouteau shall have two (2).

The county of Meagher shall have two (2).

The county of Silver Bow shall have ten (10).

The county of Custer shall have two (2).

The county of Yellowstone shall have one (1).

The county of Fergus shall have two (2).

The county of Park shall have two (2).

The county of Cascade shall have two (2).

The counties of Dawson and Cascade shall have one (1) jointly.

The counties of Deer Lodge and Beaverhead shall have one (1) jointly.

The counties of Jefferson and Gallatin shall have one (1) jointly.

ARTICLE VII.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive department shall consist of a governor, lieutenant governor, secretary of state, attorney general, state treasurer, state auditor and superintendent of public instruction,

each of whom shall hold his office for four years, or until his successor is elected and qualified, beginning on the first Monday of January next succeeding his election, except that the terms of office of those who are elected at the first election, shall begin when the state shall be admitted into the union, and shall end on the first Monday of January, A. D. 1893. The officers of the executive department, excepting the lieutenant governor, shall during their terms of office reside at the seat of government, where they shall keep the public records, books and papers. They shall perform such duties as are prescribed in this constitution and by the laws of the state. The state treasurer shall not be eligible to his office for the succeeding term.

SEC. 2. The officers provided for in section 1 of this article, shall be elected by the qualified electors of the state at the time and place of voting for members of the legislative assembly, and the persons respectively, having the highest number of votes for the office voted for shall be elected; but if two or more shall have an equal and the highest number of votes for any one of said offices, the two houses of the legislative assembly, at its next regular session, shall forthwith, by joint ballot, elect one of such persons for said office. The returns of election for the officers named in section 1 shall be made in such manner as may be prescribed by law, and all contested elections of the same, other than provided for in this section, shall be determined as may be prescribed by law.

SEC. 3. No person shall be eligible to the office of governor, lieutenant governor, or superintendent of public instruction, unless he shall have attained the age of thirty years at the time of his election, nor to the office of secretary of state, state auditor, or state treasurer, unless he shall have attained the age of twenty-five years, nor to the office of attorney general unless he shall have attained the age of thirty years, and have been admitted to practice in the supreme court of the state, or territory, of Montana, and be in good standing at the time of his election. In addition to the qualifications above prescribed, each of the officers named shall be a citizen of the United States, and have resided within the state or territory two years next preceding his election.

SEC. 4. Until otherwise provided by law, the governor, secretary of state, state auditor, treasurer, attorney general and superintendent of public instruction, shall quarterly as due, during their

continuance in office, receive for their services compensation, which is fixed as follows:

Governor, five thousand dollars per annum;

Secretary of state, three thousand dollars per annum;

Attorney general, three thousand dollars per annum;

State treasurer, three thousand dollars per annum;

State auditor, three thousand dollars per annum;

Superintendent of public instruction, two thousand five hundred dollars per annum.

The lieutenant governor shall receive the same per diem as may be prescribed by law, for the speaker of the legislative assembly, to be allowed only during the sessions of the legislative assembly.

The compensation enumerated shall be in full for all services by said officers respectively rendered in any official capacity or employment whatever during their respective terms of office, and the salary of no official shall be increased during his term of office. No officer named in this section shall receive, for the performance of any official duty, any fee for his own use, but all fees fixed by law for the performance by any officer of any official duty, shall be collected in advance, and deposited with the state treasurer quarterly to the credit of the state. No officer mentioned in this section shall be eligible to, or hold any other public office, except member of the state board of education during his term of office.

Sec. 5. The supreme executive power of the state shall be vested in the governor, who shall see that the laws are faithfully executed.

Sec. 6. The governor shall be commander-in-chief of the militia forces of the state, except when these forces are in the actual service of the United States, and shall have power to call out any part or the whole of said forces to aid in the execution of the laws, to suppress insurrection or to repel invasion.

Sec. 7. The governor shall nominate, and by and with the consent of the senate, appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment or election is not otherwise provided for. If during a recess of the senate a vacancy occur in any such office, the governor shall appoint some fit person to discharge the duties thereof until the next meeting of the senate, when he shall nominate some person to fill such office. If the office of secretary of state, state auditor, state treasurer, attorney general, or superintendent of public instruction shall be vacated by death, resignation or otherwise, it shall

be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified.

SEC. 8. The legislative assembly shall provide for a state examiner, who shall be appointed by the governor and confirmed by the senate. His duty shall be to examine the accounts of the state treasurer, supreme court clerks, district court clerks, and all county treasurers, and treasurers of such other public institutions as may be prescribed by law, and he shall perform such other duties as the legislative assembly may prescribe. He shall report at least once a year and oftener if required to such officers as may be designated by the legislative assembly. His compensation shall be fixed by law.

SEC. 9. The governor shall have the power to grant pardons, absolute and conditional, and to remit fines and forfeitures, and to grant commutation of punishments and respites after conviction and judgment for any offenses committed against the criminal laws of this state; *Provided, however*, That before granting pardons, remitting fines and forfeitures, or commuting punishments, the action of the governor concerning the same shall be approved by a board, or a majority thereof, composed of the secretary of state, attorney general and state auditor, who shall be known as the board of pardons. The legislative assembly shall by law prescribe the sessions of said board, and regulate the proceedings thereof. But no fine or forfeitures shall be remitted, and no commutation or pardon granted, except upon the approval of a majority of said board after a full hearing in open session and until notice of the time and place of such hearing, and of the relief sought, shall have been given by publication in some newspaper of general circulation in the county where the crime was committed, at least once a week for two weeks. The proceedings and decisions of the board shall be reduced to writing, and with their reasons for their action in each case, and the dissent of any member who may disagree, signed by them and filed, with all papers used upon the hearing, in the office of the secretary of state. The governor shall communicate to the legislative assembly, at each regular session, each case of remission of fine or forfeiture, reprieve, commutation or pardon granted since the last previous report, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of remission, commutation, pardon or reprieve,

with the reasons for granting the same and the objections, if any, of any member of the board made thereto.

SEC. 10. The governor may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices, which information shall be given upon oath whenever so required; he may also require information in writing, at any time, under oath, from all officers and managers of state institutions, upon any subject relating to the condition, management and expenses of their respective offices and institutions, and may, at any time he deems it necessary, appoint a committee to investigate and report to him upon the condition of any executive office or state institution. The governor shall at the beginning of each session, and from time to time by message, give to the legislative assembly information of the state, and shall recommend such measures as he shall deem expedient. He shall also send to the legislative assembly a statement with vouchers of the expenditures of all moneys belonging to the state and paid out by him. He shall also at the beginning of each session present estimates of the amount of money required to be raised by taxation for all purposes of the state.

SEC. 11. He may on extraordinary occasions convene the legislative assembly by proclamation, stating the purposes for which it is convened, but when so convened, it shall have no power to legislate on any subjects other than those specified in the proclamation, or which may be recommended by the governor, but may provide for the expenses of the session and other matters incidental thereto. He may also by proclamation, convene the senate in extraordinary session for the transaction of executive business.

SEC. 12. Every bill passed by the legislative assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law, but if he do not approve, he shall return it with his objections to the house in which it originated, which house shall enter the objections at large upon its journal and proceed to reconsider the bill. If then two-thirds of the members present agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present in that house it shall become a law notwithstanding the objections of the governor. In all such cases the vote of each house shall be determined by yeas and nays, to be entered

on the journal. If any bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislative assembly shall by their adjournment prevent its return, in which case it shall not become a law, without the approval of the governor. No bill shall become a law after the final adjournment of the legislative assembly, unless approved by the governor within fifteen days after such adjournment. In case the governor shall fail to approve of any bill after the final adjournment of the legislative assembly it shall be filed, with his objections, in the office of the secretary of state.

SEC. 13. The governor shall have power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts approved shall become a law, and the item or items disapproved shall be void, unless enacted in the manner following: If the legislative assembly be in session he shall within five days transmit to the house in which the bill originated, a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall take the same course as is prescribed for the passage of bills over the executive veto.

SEC. 14. In case of the failure to qualify, the impeachment or conviction of felony or infamous crime of the governor, or his death, removal from office, resignation, absence from the state or inability to discharge the powers and duties of his office, the powers, duties and emoluments of the office, for the residue of the term, or until the disability shall cease, shall devolve upon the lieutenant governor.

SEC. 15. The lieutenant governor shall be president of the senate, but shall vote only when the senate is equally divided. In case of the absence or disqualification of the lieutenant governor, from any cause which applies to the governor, or when he shall hold the office of governor, then the president *pro tempore* of the senate shall perform the duties of the lieutenant governor until the vacancy is filled or the disability removed.

SEC. 16. In case of the failure to qualify in his office, death, resignation, absence from the state, impeachment, conviction of felony or infamous crime, or disqualification from any cause, of both the governor and the lieutenant governor, the duties of the governor shall devolve upon the president *pro tempore* of the senate

until such disqualification of either the governor or lieutenant governor be removed, or the vacancy filled, and if the president *pro tempore* of the senate, for any of the above named causes, shall become incapable of performing the duties of governor, the same shall devolve upon the speaker of the house.

SEC. 17. The first legislative assembly shall provide a seal for the state, which shall be kept by the secretary of state and used by him officially, and known as the great seal of the state of Montana.

SEC. 18. All grants and commissions shall be in the name and by the authority of the state of Montana, sealed with the great seal of the state, signed by the governor, and countersigned by the secretary of state.

SEC. 19. An account shall be kept by the officers of the executive department, and of all public institutions of the state of all moneys received by them, severally from all sources, and for every service performed, and of all moneys disbursed by them severally, and a semi-annual report hereof shall be made to the governor, under oath; they shall also, at least twenty days preceding each regular session of the legislative assembly, make full and complete reports of their official transactions to the governor, who shall transmit the same to the legislative assembly.

SEC. 20. The governor, secretary of state and attorney general shall constitute a board of state prison commissioners, which board shall have such supervision of all matters connected with the state prisons as may be prescribed by law. They shall constitute a board of examiners, with power to examine all claims against the state, except salaries or compensation of officers fixed by law, and perform such other duties as may be prescribed by law. And no claims against the state except for salaries and compensation of officers fixed by law, shall be passed upon by the legislative assembly without first having been considered and acted upon by said board. The legislative assembly may provide for the temporary suspension of the state treasurer by the governor, when the board of examiners deem such action necessary for the protection of the moneys of the state.

ARTICLE VIII.

JUDICIAL DEPARTMENTS.

SECTION 1. The judicial power of the state shall be vested in the senate sitting as a court of impeachment, in a supreme court,

district court, justices of the peace, and such other inferior courts as the legislative assembly may establish in any incorporated city or town.

SEC. 2. The supreme court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the state, and shall have a general supervisory control over all inferior courts, under such regulations and limitations as may be prescribed by law.

SEC. 3. The appellate jurisdiction of the supreme court shall extend to all cases at law and in equity, subject, however, to such limitations and regulations as may be prescribed by law. Said court shall have power in its discretion to issue and to hear and determine writs of habeas corpus, mandamus, quo-warranto, certiorari, prohibition and injunction, and such other original and remedial writs as may be necessary or proper to complete exercise of its appellate jurisdiction. When a jury is required in the supreme court to determine an issue of fact, said court shall have power to summon such jury in such manner as may be provided by law. Each of the justices of the supreme court shall have power to issue writs of habeas corpus to any part of the state, upon petition by or on behalf of, any person held in actual custody, and may make such writs returnable before himself, or the supreme court, or before any district court of the state or any judge thereof; and such writs may be heard and determined by the justice or court, or judge, before whom they are made returnable. Each of the justices of the supreme court may also issue and hear and determine writs of certiorari in proceedings for contempt in the district court, and such other writs as he may be authorized by law to issue.

SEC. 4. At least three terms of the supreme court shall be held each year at the seat of government.

SEC. 5. The supreme court shall consist of three justices, a majority of whom shall be necessary to form a quorum or pronounce a decision, but one or more of said justices may adjourn the court from day to day, or to a day certain, and the legislative assembly shall have the power to increase the number of such justices to not less nor more than five.

[In case any justice or justices of the supreme court shall be in any way disqualified to sit in a cause brought before such court, the remaining justice or justices shall have power to call on one or more of the district judges of this state as in the particular

case may be necessary to constitute the full number of justices of which the said court shall then be composed, to sit with them in the hearing of said cause.

In all cases where a district judge is invited to sit and does sit as by this section provided, the decision and opinion of such district judge shall have the same force and effect in any case heard before the court as if regularly participated in by a justice of the supreme court.]*

SEC 6. The justices of the supreme court shall be elected by electors of the state at large, as hereinafter provided.

SEC. 7. The term of office of the justices of the supreme court, except as in this constitution otherwise provided, shall be six years.

SEC. 8. There shall be elected at the first general election, provided for by this constitution, one chief justice and two associate justices of the supreme court. At said first election the chief justice shall be elected to hold his office until the general election in the year one thousand eight hundred ninety-two (1892), and one of the associate justices to hold his office until the general election in the year one thousand eight hundred ninety-four (1894), and the other associate justice to hold his office until the general election in the year one thousand eight hundred ninety-six (1896), and each shall hold until his successor is elected and qualified. The terms of office of said justices, and which one shall be chief justice, shall at the first and all subsequent elections be designated by ballot. After said first election one chief justice or one associate justice shall be elected at the general election every two years, commencing in the year one thousand eight hundred ninety-two (1892), and if the legislative assembly shall increase the number of justices to five, the first terms of office of such additional justices shall be fixed by law in such manner that at least one of the five justices shall be elected every two years. The chief justice shall preside at all sessions of the supreme court, and in case of his absence, the associate justice having the shortest term to serve shall preside in his stead.

SEC. 9. There shall be a clerk of the supreme court, who shall hold his office for the term of six years, except that the clerk first elected shall hold his office only until the general election in

* The two paragraphs enclosed in brackets were added to the constitution by an amendment proposed by the Sixth Legislative Assembly, and ratified at the general election, November 6, 1900.

the year one thousand eight hundred ninety-two (1892), and until his successor is elected and qualified. He shall be elected by the electors at large of the state, and his compensation shall be fixed by law, and his duties prescribed by law, and by the rules of the supreme court.

SEC. 10. No person shall be eligible to the office of justice of the supreme court, unless he shall have been admitted to practice law in the supreme court of the territory or state of Montana, be at least thirty years of age, and a citizen of the United States, nor unless he shall have resided in said territory or state at least two years next preceding his election.

DISTRICT COURTS.

SEC. 11. The district court shall have original jurisdiction in all cases at law and in equity, including all cases which involve the title or right of possession of real property, or the legality of any tax, impost, assessment, toll or municipal fine, and in all cases in which the debt, damage, claim or demand, exclusive of interest, or the value of the property in controversy exceeds fifty dollars; and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for; of actions of forcible entry and unlawful detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of actions of divorce and for annullment of marriage, and for all such special actions and proceedings as are not otherwise provided for. And said courts shall have the power of naturalization, and to issue papers therefor, in all cases where they are authorized so to do by the laws of the United States. They shall have appellate jurisdiction in such cases arising in justices' and other inferior courts in their respective districts as may be prescribed by law, and consistent with this constitution. Their process shall extend to all parts of the state, provided that all actions for the recovery of, the possession of, quieting the title to, or for the enforcement of liens upon real property, shall be commenced in the county in which the real property, or any part thereof, affected by such action or actions, is situated. Said courts and the judges thereof shall have power also to issue, hear and determine writs of mandamus, quo warranto, certiorari, prohibition, injunction and other original and remedial writs, and also all writs of habeas corpus

on petition by, or on behalf of, any person held in actual custody in their respective districts. Injunctions, writs of prohibition and habeas corpus, may be issued and served on legal holidays and non-judicial days.

SEC. 12. The state shall be divided into judicial districts, in each of which there shall be elected by the electors thereof one judge of the district court, whose term of office shall be four years, except that the district judges first elected shall hold their offices only until the general election in the year one thousand eight hundred and ninety-two (1892), and until their successors are elected and qualified. Any judge of the district court may hold court for any other district judge, and shall do so when required by law.

SEC. 13. Until otherwise provided by law the judicial districts of the state shall be constituted as follows: First district, Lewis and Clarke county; Second district, Silver Bow county; third district, Deer Lodge county; Fourth district, Missoula county; Fifth district, Beaverhead, Jefferson and Madison counties; Sixth district, Gallatin, Park and Meagher counties; Seventh district, Yellowstone, Custer and Dawson counties; Eighth district, Chouteau, Cascade and Fergus counties.

SEC. 14. The legislative assembly may increase or decrease the number of judges in any judicial district; *provided,* that there shall be at least one judge in any district established by law; and may divide the state, or any part thereof, into new districts; *provided,* that each be formed of compact territory and be bounded by county lines, but no changes in the number or boundaries of districts shall work a removal of any judge from office during the term for which he has been elected or appointed.

SEC. 15. Writs of error and appeals shall be allowed from the decisions of the said district courts to the supreme court under such regulations as may be prescribed by law.

SEC. 16. No person shall be eligible to the office of judge of the district court unless he be at least twenty-five years of age and a citizen of the United States, and shall have been admitted to practice law in the supreme court of the territory or state of Montana, nor unless he shall have resided in this state or territory at least one year next preceding his election. He need not be a resident of the district for which he is elected at the time of his election, but after his election he shall reside in the district for which he is elected during his term of office.

SEC. 17. The district court in each county which is a judicial district by itself shall be always open for the transaction of business, except on legal holidays and non-judicial days. In each district where two or more counties are united, until otherwise provided by law, the judges of such district shall fix the term of court, provided that there shall be at least four terms a year held in each county.

SEC. 18. There shall be a clerk of the district court in each county, who shall be elected by the electors of his county. The clerk shall be elected at the same time and for the same term as the district judge. The duties and compensation of the said clerk shall be as provided by law.

COUNTY ATTORNEYS.

SEC. 19. There shall be elected at the general election in each county of the state one county attorney, whose qualifications shall be the same as are required for a judge of the district court, except that he must be over twenty-one years of age, but need not be twenty-five years of age, and whose term of office shall be two years, except that the county attorneys first elected shall hold their offices until the general election in the year one thousand eight hundred and ninety-two (1892), and until their successors are elected and qualified. He shall have a salary to be fixed by law, one-half of which shall be paid by the state, and the other half by the county for which he is elected, and he shall perform such duties as may be required by law.

JUSTICES OF THE PEACE.

SEC. 20. There shall be elected in each organized township of each county by the electors of such township at least two justices of the peace, who shall hold their offices except as otherwise provided in this constitution, for the term of two years. Justices' courts shall have such original jurisdiction within their respective counties as may be prescribed by law, except as in this constitution otherwise provided; *provided,* that they shall not have jurisdiction in any case where the debt, damage, claim or value of the property involved exceeds the sum of three hundred dollars.

SEC. 21. Justices' courts shall not have jurisdiction in any case involving the title or right of possession of real property, nor

in cases of divorce, nor for annullment of marriage, nor of cases in equity; nor shall they have power to issue writs of habeas corpus, mandamus, certiorari, quo warranto, injunction, or prohibition, nor the power of naturalization; nor shall they have jurisdiction in cases of felony, except as examining courts; nor shall criminal cases in said courts be prosecuted by indictment; but said courts shall have such jurisdiction in criminal matters, not of the grade of felony, as may be provided by law; and shall also have concurrent jurisdiction with the district courts, in cases of forcible entry and unlawful detainer.

SEC. 22. Justices' courts shall always be open for the transaction of business, except on legal holidays and non-judicial days.

SEC. 23. Appeals shall be allowed from justices' courts, in all cases, to the district courts, in such manner and under such regulations as may be prescribed by law.

POLICE AND MUNICIPAL COURTS.

SEC. 24. The legislative assembly shall have power to provide for creating such police and municipal courts and magistrates for cities and towns as may be deemed necessary from time to time, who shall have jurisdiction in all cases arising under the ordinances of such cities and towns, respectively; such police magistrates may also be constituted ex officio justices of the peace for their respective counties.

SEC. 25. The supreme and district courts shall be courts of record.

SEC. 26. All laws relating to courts shall be general and of uniform operation throughout the state; and the organization, jurisdiction, powers, proceedings and practice of all courts of the same class or grade, so far as regulated by law, shall be uniform.

SEC. 27. The style of all process shall be "The State of Montana" and all prosecutions shall be conducted in the name and by the authority of the same.

SEC. 28. There shall be but one form of civil action, and law and equity may be administered in the same action.

SEC. 29. The justices of the supreme court and the judges of the district courts shall each be paid quarterly by the state, a salary which shall not be increased or diminished during the terms for which they shall have been respectively elected. Until

otherwise provided by law, the salary of the justices of the supreme court shall be four thousand dollars per annum each, and the salary of the judges of the district courts shall be three thousand five hundred dollars per annum each.

SEC. 30. No justice of the supreme court nor judge of the district court shall accept or receive any compensation, fee, allowance, mileage, perquisite or emolument for or on account of his office in any form whatever, except the salary provided by law.

SEC. 31. No justice or clerk of the supreme court, nor judge or clerk of any district court shall act or practice as an attorney, or counsellor at law in any court of this state during his continuance in office.

SEC. 32. The legislative assembly may provide for the publication of decisions and opinions of the supreme court.

SEC. 33. All officers provided for in this article, excepting justices of the supreme court, who shall reside within the state, shall respectively reside during their term of office in the district, county, township, precinct, city or town for which they may be elected or appointed.

SEC. 34. Vacancies in the office of justice of the supreme court, or judge of the district court, or clerk of the supreme court, shall be filled by appointment, by the governor of the state, and vacancies in the offices of county attorneys, clerk of the district court, and justices of the peace shall be filled by appointment by the board of county commissioners of the county where such vacancy occurs. A person appointed to fill any such vacancy shall hold his office until his successor is elected and qualified. A person elected to fill a vacancy shall hold office until the expiration of the term for which the person he succeeds was elected.

SEC. 35. No justice of the supreme court or district judge shall hold any other public office while he remains in the office to which he has been elected or appointed.

SEC. 36. A civil action in the district court may be tried by a judge pro tempore, who must be a member of the bar of the state, agreed upon in writing by the parties litigant, or their attorneys of record, approved by the court, and sworn to try the cause; and in such case any order, judgment or decree, made or rendered therein by such judge pro tempore, shall have the same force and effect as if made or rendered by the court with the regular judge presiding.

SEC. 37. Any judicial officer who shall absent himself from the state for more than sixty consecutive days shall be deemed to have forfeited his office.

ARTICLE IX.

RIGHTS OF SUFFRAGE AND QUALIFICATIONS TO HOLD OFFICE.

SECTION 1. All elections of the people shall be by ballot.

SEC. 2. Every male person of the age of twenty-one years or over, possessing the following qualifications, shall be entitled to vote at all general elections and for all officers that now are, or hereafter may be, elective by the people and upon all questions which may be submitted to the vote of the people: First, he shall be a citizen of the United States; second, he shall have resided in this state one year immediately preceding the election at which he offers to vote, and in the town, county or precinct such time as may be prescribed by law; *provided,* first that no person convicted of felony shall have the right to vote unless he has been pardoned; *provided,* second, that nothing herein contained shall be construed to deprive any person of the right to vote who has such right at the time of the adoption of this constitution; *provided,* that after the expiration of five years from the time of the adoption of this constitution no person except citizens of the United States shall have the right to vote.

SEC. 3. For the purpose of voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the state, or of the United States, nor while a student at any institution of learning, nor while kept at any alms-house or other asylum at the public expense, nor while confined in any public prison.

SEC. 4. Electors shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections and in going to and returning therefrom.

SEC. 5. No elector shall be obliged to perform military duty on the days of election, except in time of war or public danger.

SEC. 6. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of being stationed at any military or naval place within the same.

SEC. 7. No person shall be elected or nominated to any office

in this state, civil or military, who is not a citizen of the United States, and who shall not have resided in this state at least one year next before his election or appointment.

SEC. 8. No idiot or insane person shall be entitled to vote at any election in this state.

SEC. 9. The legislative assembly shall have the power to pass a registration and such other laws as may be necessary to secure the purity of elections and guard against abuses of the elective franchise.

SEC. 10. Women shall be eligible to hold the office of county superintendent of schools or any school district office and shall have the right to vote at any school district election.

SEC. 11. Any person qualified to vote at general elections and for state officers in this state shall be eligible to any office therein except as otherwise provided in this constitution, and subject to such additional qualifications as may be prescribed by the legislative assembly for city offices and offices hereafter created.

SEC. 12. Upon all questions submitted to the vote of the tax-payers of the state, or any political division thereof, women who are tax-payers and possessed of the qualifications for the right of suffrage required of men by this constitution shall equally, with men, have the right to vote.

SEC. 13. In all elections held by the people under this constitution, the person or persons who shall receive the highest number of legal votes, shall be declared elected.

ARTICLE X.

STATE INSTITUTIONS AND PUBLIC BUILDINGS.

SECTION 1. Educational, reformatory and penal institutions, and those for the benefit of the insane, blind, deaf and mute, soldiers' home, and such other institutions as the public good may require, shall be established and supported by the state in such a manner as may be prescribed by law.

SEC. 2. At the general election in the year one thousand eight hundred and ninety-two, the question of permanent location of the seat of government is hereby provided to be submitted to the qualified electors of the state and the majority of all the votes upon said question shall determine the location thereof. In case there shall be no choice of location at said election, the question

of choice between the two places for which the highest number of votes shall have been cast shall be, and is hereby submitted in like manner to the qualified electors at the next general election thereafter; *provided,* that until the seat of government shall have been permanently located the temporary seat of government shall be and remain in the city of Helena.

SEC. 3. When the seat of government shall have been located as herein provided the location thereof shall not thereafter be changed, except by a vote of two-thirds of all the qualified electors of the state voting on that question at a general election at which the question of the location of the seat of government shall have been submitted by the legislative assembly.

SEC. 4. The legislative assembly shall make no appropriations or expenditures for capital buildings or grounds until the seat of government shall have been permanently located, as herein provided.

SEC. 5. The several counties of the state shall provide as may be prescribed by law for those inhabitants, who, by reason of age, infirmity or misfortune, may have claims upon the sympathy and aid of society.

ARTICLE XI.

EDUCATION.

SECTION 1. It shall be the duty of the legislative assembly of Montana to establish and maintain a general, uniform and thorough system of public, free, common schools.

SEC. 2. The public school fund of the state shall consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted, to the state by the general government, known as school lands; and those granted in lieu of such; lands acquired by gift or grant from any person or corporation under any law or grant of the general government; and of all other grants of land or money made to the state from the general government for general educational purposes, or where no other special purpose is indicated in such grant; all estates, or distributive shares of the estates that may escheat to the state; all unclaimed shares and dividends of any corporation incorporated under the laws of the state, and all other grants, gifts, devises or bequests made to the state for general educational purposes.

SEC. 3. Such public school fund shall forever remain inviolate, guaranteed by the state against loss or diversion, to be invested, so far as possible, in public securities within the state, including school district bonds, issued for the erection of school buildings, under the restrictions to be provided by law.

SEC. 4. The governor, superintendent of public instruction, secretary of state and attorney general shall constitute the state board of land commissioners, which shall have the direction, control, leasing and sale of the school lands of the state, and the lands granted or which may hereafter be granted for the support and benefit of the various state educational institutions, under such regulations and restrictions as may be prescribed by law.

SEC. 5. The interest on all invested school funds of the state, and all rents accruing from the leasing of any school lands, shall be apportioned to the several school districts of the state in proportion to the number of children and youths between the ages of six and twenty-one years, residing therein respectively, but no district shall be entitled to such distributive share that does not maintain a public free school for at least three months during the year for which distributions shall be made.

SEC. 6. It shall be the duty of the legislative assembly to provide by taxation, or otherwise, sufficient means, in connection with the amount received from the general school fund, to maintain a public, free, common school in each organized district in the state, for at least three months in each year.

SEC. 7. The public free schools of the state shall be open to all children and youths between the ages of six and twenty-one years.

SEC. 8. Neither the legislative assembly, nor any county, city, town, or school district, or other public corporations, shall ever make directly or indirectly, any appropriation, or pay from any public fund or moneys whatever, or make any grant of lands or other property in aid of any church, or for any sectarian purpose, or to aid in the support of any school, academy, seminary, college, university, or other literary, scientific institution, controlled in whole or in part by any church, sect or denomination whatever.

SEC. 9. No religious or partisan test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the state, either as teacher or student; nor shall attendance be required at any religious service

whatever, nor shall any sectarian tenets be taught in any public educational institution of the state; nor shall any person be debarred admission to any of the collegiate departments of the university on account of sex.

SEC. 10. The legislative assembly shall provide that all elections for school district officers shall be separate from those elections at which state or county officers are voted for.

SEC. 11. The general control and supervision of the state university and the various other state educational institutions shall be vested in a state board of education, whose powers and duties shall be prescribed and regulated by law. The said board shall consist of eleven members, the governor, state superintendent of public instruction, and attorney general, being members ex officio, the other eight members thereof shall be appointed by the governor, subject to the confirmation of the senate, under the regulations and restrictions to be provided by law.

SEC. 12. The funds of the state university and of all other state institutions of learning, from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated. The various funds shall be respectively invested under such regulations as may be prescribed by law, and shall be guaranteed by the state against loss or diversion. The interest of said invested funds, together with the rents from leased lands or properties shall be devoted to the maintenance and perpetuation of these respective institutions.

ARTICLE XII.

REVENUE AND TAXATION.

SECTION 1. The necessary revenue for the support and maintenance of the state shall be provided by the legislative assembly, which shall levy a uniform rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, except that specially provided for in this article. The legislative assembly may also impose a license tax, both upon persons and upon corporations doing business in the state.

SEC. 2. The property of the United States, the state, counties, cities, towns, school districts, municipal corporations, and public libraries shall be exempt from taxation; and such other property

as may be used exclusively for agricultural and horticultural societies, for educational purposes, places for actual religious worship, hospitals and places of burial not used or held for private or corporate profit, and institutions of purely public charity may be exempt from taxation.

SEC. 3. All mines and mining claims, both placer and rock in place, containing or bearing gold, silver, copper, lead, coal, or other valuable mineral deposits, after purchase thereof from the United States, shall be taxed at the price paid the United States therefor, unless the surface ground, or some part thereof, of such mine or claim is used for other than mining purposes, and has a separate and independent value for such other purposes, in which case said surface ground, or any part thereof, so used for other than mining purposes, shall be taxed at its value for such other purposes, as provided by law; and all machinery used in mining, and all property and surface improvements upon or appurtenant to mines and mining claims which have a value separate and independent of such mines or mining claims, and the annual net proceeds of all mines and mining claims shall be taxed as provided by law.

SEC. 4. The legislative assembly shall not levy taxes upon the inhabitants or property in any county, city, town, or municipal corporation for county, town, or municipal purposes, but it may by law vest in the corporate authorities thereof powers to assess and collect taxes for such purposes.

SEC. 5. Taxes for city, town and school purposes may be levied on all subjects and objects of taxation, but the assessed valuation of any property shall not exceed the valuation of the same property for state and county purposes.

SEC. 6. No county, city, town or other municipal corporation, the inhabitants thereof nor the property therein, shall be released or discharged from their or its proportionate share of state taxes.

SEC. 7. The power to tax corporations or corporate property shall never be relinquished or suspended, and all corporations in this state, or doing business therein, shall be subject to taxation for state, county, school, municipal and other purposes, on real and personal property owned or used by them and not by this constitution exempted from taxation.

SEC. 8. Private property shall not be taken or sold for the corporate debts of public corporations, but the legislative assembly may provide by law for the funding thereof, and shall provide by

law for the payment thereof, including all funded debts and obligations, by assessment and taxation of all private property not exempt from taxation within the limits of the territory over which such corporations respectively have authority.

SEC. 9. The rate of taxation of real and personal property for state purposes in any one year shall never exceed three (3) mills on each dollar of valuation; and whenever the taxable property in the state shall amount to one hundred million dollars ($100,000,000), the rate shall not exceed two and one-half (2½) mills on each dollar of valuation; and whenever the taxable property in the state shall amount to three hundred million dollars ($300,000,000) the rate shall never exceed one and one-half (1½) mills on each dollar of valuation; unless a proposition to increase such rate specifying the rate proposed and the time during which the same shall be levied, shall have been submitted to the people at a general election, and shall have received a majority of all the votes cast for and against it at such election.

SEC. 10. All taxes levied for state purposes shall be paid into the state treasury, and no money shall be drawn from the treasury but in pursuance of specific appropriations made by law.

SEC. 11. Taxes shall be levied and collected by general laws and for public purposes only. They shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax.

SEC. 12. No appropriation shall be made or any expenditures authorized by the legislative assembly whereby the expenditures of the state during any fiscal year shall exceed the total tax then provided for by law, and applicable to such appropriation or expenditure, unless the legislative assembly making such appropriation shall provide for levying a sufficient tax, not exceeding the rate allowed in section nine (9) of this article, to pay such appropriations or expenditures within such fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrection, defend the state, or assist in defending the United States in time of war. No appropriations of public moneys shall be made for a longer term than two years.

SEC. 13. The state treasurer shall keep a separate account of each fund in his hands, and shall at the end of each quarter of the fiscal year report to the governor in writing under oath, the amount of all moneys in his hands to the credit of every such

fund, and the place or places where the same is kept or deposited, and the number and amount of every warrant paid or redeemed by him during the quarter. The governor, or other person or persons authorized by law, shall verify said report and cause the same to be immediately published in at least one newspaper printed at the seat of government, and otherwise as the legislative assembly may require. The legislative assembly may provide by law further regulations for the safe keeping and management of the public funds in the hands of the treasurer; but, notwithstanding any such regulations, the treasurer and his sureties shall, in all cases, be held responsible therefor.

SEC. 14. The making of profit out of public moneys, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law, but part of such punishment shall be disqualification to hold public office.

SEC. 15. The governor, secretary of state, state treasurer, state auditor and attorney general shall constitute a state board of equalization and the board of county commissioners of each county shall constitute a county board of equalization. The duty of the state board of equalization shall be to adjust and equalize the valuation of the taxable property among the several counties of the state. The duty of the county boards of equalization shall be to adjust and equalize the valuation of taxable property within their respective counties. Each board shall also perform such other duties as may be prescribed by law.

SEC. 16. All property shall be assessed in the manner prescribed by law except as is otherwise provided in this constitution. The franchise, roadway, roadbed, rails and rolling stock of all railroads operated in more than one county in this state shall be assessed by the state board of equalization and the same shall be apportioned to the counties, cities, towns, townships and school districts in which such railroads are located, in proportion to the number of miles of railway laid in such counties, cities, towns, townships and school districts.

SEC. 17. The word property as used in this article is hereby declared to include moneys, credits, bonds, stocks, franchises and all matters and things (real, personal and mixed) capable of private ownership, but this shall not be construed so as to authorize the taxation of the stocks of any company or corporation when

the property of such company or corporation represented by such stocks is within the state and has been taxed.

SEC. 18. The legislative assembly shall pass all laws, necessary to carry out the provisions of this article.

ARTICLE XIII.

PUBLIC INDEBTEDNESS.

SECTION 1. Neither the state, nor any county, city, town, municipality, nor other subdivision of the state shall ever give or loan its credit in aid of, or make any donation or grant, by subsidy or otherwise, to any individual, association or corporation, or become a subscriber to, or a shareholder in, any company or corporation, or a joint owner with any person, company or corporation, except as to such ownership as may accrue to the state by operation or provision of law.

SEC. 2. The legislative assembly shall not in any manner create any debt except by law which shall be irrepealable until the indebtedness therein provided for shall have been fully paid or discharged; such law shall specify the purpose to which the funds so raised shall be applied and provide for the levy of a tax sufficient to pay the interest on, and extinguish the principal of such debt within the time limited by such law for the payment thereof; but no debt or liability shall be created which shall singly, or in the aggregate with any existing debt or liability, exceed the sum of one hundred thousand dollars ($100,000) except in cases of war, to repel invasion or suppress insurrection, unless the law authorizing the same shall have been submitted to the people at a general election and shall have received a majority of the votes cast for and against it at such election.

SEC. 3. All moneys borrowed by, or on behalf of the state or any county, city, town, municipality or other subdivision of the state, shall be used only for the purpose specified in the law authorizing the loan.

SEC. 4. The state shall not assume the debt or any part thereof, of any county, city, town or municipal corporation.

SEC. 5. No county shall be allowed to become indebted in any manner, or for any purpose, to an amount, including existing indebtedness, in the aggregate, exceeding five (5) per centum of

the (value of the) taxable property therein, to be ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by, or on behalf of, such county shall be void. No county shall incur any indebtedness or liability for any single purpose to an amount exceeding ten thousand dollars ($10,000) without the approval of a majority of the electors thereof, voting at an election to be provided by law.

SEC. 6. No city, town, township or school district shall be allowed to become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding three per centum of the value of the taxable property therein, to be ascertained by the last assessment for the state and county taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by, or on behalf of, such city, town, township or school district shall be void; *provided, however,* that the legislative assembly may extend the limit mentioned in this section, by authorizing municipal corporations to submit the question to a vote of the tax-payers affected thereby, when such increase is necessary to construct a sewerage system or to procure a supply of water for such municipality which shall own and control said water supply and devote the revenues derived therefrom to the payment of the debt.

ARTICLE XIV.

MILITARY AFFAIRS.

SECTION 1. The militia of the state of Montana shall consist of all able-bodied male citizens of the state between the ages of eighteen (18) and forty-five (45) years inclusive, except such persons as may be exempted by the laws of the state or of the United States.

SEC. 2. The legislative assembly shall provide by law for the organization, equipment, and discipline of the militia and shall make rules and regulations for the government of the same. The organization shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

SEC. 3. The legislative assembly shall provide by law for maintaining the militia by appropriations from the treasury of the state.

SEC. 4. The legislative assembly shall provide by law for the safe keeping of the public arms, military records, relics and banners of the state.

SEC. 5. When the governor shall, with the consent of the legislative assembly, be out of the state in time of war at the head of any military force thereof, he shall continue commander-in-chief of all the military forces of the state.

ARTICLE XV.

CORPORATIONS OTHER THAN MUNICIPAL.

SECTION 1. All existing charters, or grants of special or exclusive privileges, under which the corporations or grantees shall not have organized or commenced business in good faith at the time of the adoption of this constitution, shall thereafter have no validity.

SEC. 2. No charter of incorporations shall be granted, extended, changed or amended by special law, except for such municipal, charitable, educational, penal, or reformatory corporations hereafter to be created; *provided,* that any such laws shall be subject to future repeal or alterations by the legislative assembly.

SEC. 3. The legislative assembly shall have the power to alter, revoke or annul any charter of incorporation existing at the time of the adoption of this constitution, or which may be hereafter incorporated, whenever in its opinion it may be injurious to the citizens of the state.

SEC. 4. The legislative assembly shall provide by law that in all elections for directors or trustees of incorporated companies, every stockholder shall have the right to vote in person or by proxy the number of shares of stock owned by him for as many persons as there are directors or trustees to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them, on the same principle, among as many candidates as he shall think fit, and such directors or trustees shall not be elected in any other manner.

SEC. 5. All railroads shall be public highways, and all railroad, transportation and express companies shall be common carriers and subject to legislative control, and the legislative assembly shall

have the power to regulate and control by law the rates of charges for the transportation of passengers and freight by such companies as common carriers from one point to another in the state. Any association or corporation, organized for the purpose, shall have the right to construct and operate a railroad between any designated points within this state and to connect at the state line with railroads of other states and territories. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad.

SEC. 6. No railroad corporation, express, or other transportation company, or the lessees or managers thereof, shall consolidate its stock, property or franchises with any other railroad corporation, express or other transportation company, owning or having under its control a parallel or competing line; neither shall it in any manner unite its business or earnings with the business or earnings of any other railroad corporation; nor shall any officer of such railroad, express, or other transportation company act as an officer of any other railroad company, express, or other transportation company owning or having control of a parallel or competing line.

SEC. 7. All individuals, associations, and corporations shall have equal rights to have persons or property transported on and over any railroad, transportation or express route in this state. No discrimination in charges or facilities for transportation of freight or passengers of the same class shall be made by any railroad, or transportation, or express company, between persons or places within this state; but excursion or commutation tickets may be issued and sold at special rates, provided such rates are the same to all persons. No railroad, or transportation, or express company, shall be allowed to charge, collect, or receive, under penalties which the legislative assembly shall prescribe, any greater toll for the transportation of freight or passengers to any place or station upon its route or line, than it charges for the transportation of the same class of freight or passengers to any more distant place or station upon its route or line within this state. No railroad, express, or transportation company, nor any lessee, manager, or other employe thereof, shall give any preference to any individual, association or corporation, in furnishing cars or motive power, or for the transportation of money or other express matter.

SEC. 8 No railroad, express, or other transportation company,

in existence at the time of the adoption of this constitution, shall have the benefit of any future legislation, without first filing in the office of the secretary of state an acceptance of the provisions of this constitution in binding form.

SEC. 9. The right of eminent domain shall never be abridged, nor so construed as to prevent the legislative assembly from taking the property and franchises of incorporated companies, and subjecting them to public use the same as the property of individuals; and the police powers of the state shall never be abridged, or so construed, as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals, or the general well being of the state.

SEC. 10. No corporation shall issue stocks or bonds, except for labor done, services performed, or money and property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding a majority of the stock first obtained at a meeting held after at least thirty days' notice given in pursuance of law.

SEC. 11. No foreign corporation shall do any business in this state without having one or more known places of business, and an authorized agent or agents in the same, upon whom process may be served. And no company or corporation formed under the laws of any other country, state or territory, shall have, or be allowed to exercise, or enjoy within this state any greater rights or privileges than those possessed or enjoyed by corporations of the same or similar character created under the laws of the state.

SEC. 12. No street or other railroad shall be constructed within any city or town without the consent of the local authorities having control of the street or highway proposed to be occupied by such street or other railroad.

SEC. 13. The legislative assembly shall pass no law for the benefit of a railroad or other corporation, or any individual or association of individuals, retrospective in its operation, or which imposes on the people of any county or municipal subdivision of the state, a new liability in respect to transactions or considerations already passed.

SEC. 14. Any association or corporation, or the lessees or managers thereof, organized for the purpose, or any individual, shall have the right to construct or maintain lines of telegraph or tele-

phone within this state, and connect the same with other lines; and the legislative assembly shall by general law of uniform operation provide reasonable regulations to give full effect to this section. No telegraph or telephone company shall consolidate with, or hold a controlling interest in, the stock or bonds of any other telegraph or telephone company owning or having control of a competing line, or acquire by purchase or otherwise, any other competing line of telegraph or telephone.

SEC. 15. If any railroad, telegraph, telephone, express, or other corporation or company organized under any of the laws of this state, shall consolidate, by sale or otherwise, with any railroad, telegraph, telephone, express, or other corporation, organized under any of the laws of any other state or territory of the United States, the same shall not become a foreign corporation, but the courts of this state shall retain jurisdiction over that part of the corporate property within the limits of the states, in all matters that may arise as if said consolidation had not taken place.

SEC. 16. It shall be unlawful for any person, company or corporation to require of its servants or employes, as a condition of their employment or otherwise, any contract or agreement whereby such persons, company or corporation, shall be released or discharged from liability or responsibility on account of personal injuries received by such servants or employes while in the service of such person, company or corporation, by reason of the negligence of such person, company or corporation, or the agents or employes thereof; and such contracts shall be absolutely null and void.

SEC. 17. The legislative assembly shall not pass any law permitting the leasing or alienation of any franchise so as to release or relieve the franchise or property held thereunder from any of the liabilities of the lessor or grantor, or lessee or grantee, contracted or incurred in the operation, use or enjoyment of such franchise, or any of its privileges.

SEC. 18. The term "corporation," as used in this article shall be held and construed to include all associations and joint stock companies, having or exercising any of the powers or privileges of corporations not possessed by individuals or partnerships; and all corporations shall have the right to sue, and shall be subject to be sued in all courts in like cases as natural persons, subject to such regulations and conditions as may be prescribed by law.

SEC. 19. Dues from private corporations shall be secured by such means as may be prescribed by law.

SEC. 20. No incorporation, stock company, person or association of persons in the state of Montana, shall directly combine or form what is known as a trust, or make any contract with any person or persons, corporations, or stock company, foreign or domestic, through their stockholders, trustees, or in any manner whatever, for the purpose of fixing the price, or regulating the production of any article of commerce, or of the product of the soil, for consumption by the people. The legislative assembly shall pass laws for the enforcement thereof by adequate penalties to the extent, if necessary for that purpose, of the forfeiture of their property and franchises, and in case of foreign corporations prohibiting them from carrying on business in the state.

ARTICLE XVI.

MUNICIPAL CORPORATIONS AND OFFICERS.

SECTION 1. The several counties of the territory of Montana, as they shall exist at the time of the admission of the state into the union are hereby declared to be the counties of the state until otherwise established or changed by law.

SEC. 2. The legislative assembly shall have no power to remove the county seat of any county, but the same shall be provided for by general law; and no county seat shall be removed unless a majority of the qualified electors of the county, at a general election on a proposition to remove the county seat, shall vote therefor; but no such proposition shall be submitted oftener than once in four years.

SEC. 3. In all cases of the establishment of a new county it shall be held to pay its ratable proportion of all then existing liabilities of the county or counties from which it is formed, less the ratable proportion of the value of the county buildings and property of the county or counties from which it is formed; *provided*, that nothing in this section shall prevent the re-adjustment of county lines between existing counties.

SEC. 4. In each county there shall be elected three county commissioners, whose term of office shall be six years; *provided*,

that the term of office of those elected on November 6th, 1900, shall expire on the first Monday in January, 1907; *provided further*, that at the general election to be held in November, 1902 (in counties where commissioners are to be elected that year), three commissioners shall be elected whose terms shall expire on the first Monday in January, 1907; *provided further*, that at the general election to be held in November, 1906, one commissioner shall be elected for a term of two years, one commissioner shall be elected for a term of four years, and one commissioner shall be elected for a term of six years, whose term of office shall commence on the said first Monday of January, 1907; and *provided further*, that at each general election thereafter commencing with the general election to be held in November, 1908, one commissioner shall be elected for a term of six years. A vacancy in the board of county commissioners shall be filled by appointment by the judge of the judicial district in which the vacancy occurs.*

SEC. 5. There shall be elected in each county the following officers: One county clerk, who shall be clerk of the county commissioners and ex officio recorder; one sheriff; one treasurer, who shall be collector of taxes; *provided*, that no person shall hold the office of county treasurer for more than two consecutive terms; one county superintendent of schools; one county surveyor; one assessor; one coroner; one public administrator. Persons elected to the different offices named in this section shall hold their respective offices for the term of two years, and until their successors are elected and qualified. Vacancies in all county, township and precinct offices, except that of county commissioners, shall be filled by appointment by the board of county commissioners, and the appointee shall hold his office until the next general election.

SEC. 6. The legislative assembly may provide for the election or appointment of such other county, township, precinct and municipal officers as public convenience may require and their terms of office shall be as prescribed by law, not in any case to exceed two years, except as in this constitution otherwise provided.

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*In the original constitution this section reads as follows: "In each county there shall be elected three county commissioners whose term of office shall be four years. A vacancy in the board of county commissioners shall be filled by appointment by the district judge of the district in which the vacancy occurs." The section printed above is an amendment proposed by the Seventh Legislative Assembly, and ratified at the general election, Nov. 4, 1902.

ARTICLE XVII.

PUBLIC LANDS.

SECTION 1. All lands of the state that have been, or that may hereafter be granted to the state by congress, and all lands acquired by gift or grant or devise, from any person or corporation, shall be public lands of the state, and shall be held in trust for the people, to be disposed of as hereafter provided, for the respective purposes for which they have been or may be granted, donated or devised; and none of such land, nor any estate or interest therein, shall ever be disposed of except in pursuance of general laws providing for such disposition, nor unless the full market value of the estate or interest disposed of, to be ascertained in such manner as may be provided by law, be paid or safely secured to the state; nor shall any lands which the state holds by grant from the United States (in any case in which the manner of disposal and minimum price are so prescribed) be disposed of, except in the manner and for at least the price prescribed in the grant thereof, without the consent of the United States. Said lands shall be classified by the board of land commissioners, as follows: First, lands which are valuable only for grazing purposes. Second, those which are principally valuable for the timber that is on them. Third, agricultural lands. Fourth, lands within the limits of any town or city or within three miles of such limits; *provided,* that any of said lands may be re-classified whenever, by reason of increased facilities for irrigation or otherwise, they shall be subject to different classification.

SEC. 2. The lands of the first of said classes may be sold or leased, under such rules and regulations as may be prescribed by law. The lands of the second class may be sold, or the timber thereon may be sold, under such rules and regulations as may be prescribed by law. The agricultural lands may be either sold or leased, under such rules and regulations as may be prescribed by law. The lands of the fourth class shall be sold in alternate lots of not more than five acres each, and not more than one-half of any one tract of such lands shall be sold prior to the year one thousand nine hundred and ten (1910).

SEC. 3. All public lands may be disposed of in such manner as may be provided by law.

ARTICLE XVIII.

LABOR.

SECTION 1. The legislative assembly may provide for a bureau of agriculture, labor and industry, to be located at the capital and be under the control of a commissioner appointed by the governor subject to the confirmation of the senate. The commissioner shall hold his office for four years, and until his successor is appointed and qualified, his compensation shall be as provided by law.

SEC. 2. It shall be unlawful for the warden or other officer of any state penitentiary or reformatory institution in the state of Montana, or for any state officer to let by contract to any person or persons or corporation the labor of any convict within said institutions.

ARTICLE XIX.

MISCELLANEOUS SUBJECTS AND FUTURE AMENDMENTS.

SECTION 1. Members of the legislative assembly and all officers, executive, ministerial or judicial, shall before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation, to-wit: "I do solemnly swear (or affirm) that I will support, protect and defend the constitution of the United States, and the constitution of the state of Montana, and that I will discharge the duties of my office with fidelity; and that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment) except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this state, or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office other than the compensation allowed by law, so help me God." And no other oath, declaration or test shall be required as a qualification for any office or trust.

SEC. 2. The legislative assembly shall have no power to authorize lotteries, or gift enterprises for any purpose, and shall

pass laws to prohibit the sale of lottery or gift enterprise tickets in this state.

SEC. 3. The legislative assembly shall enact suitable laws to prevent the destruction by fire from any cause of the grasses and forests upon lands of the state or upon lands of the public domain the control of which may be conferred by congress upon this state, and to otherwise protect the same.

SEC. 4. The legislative assembly shall enact liberal homestead and exemption laws.

SEC. 5. No perpetuities shall be allowed, except for charitable purposes.

SEC. 6. All county officers shall keep their offices at the county seats of their respective counties.

SEC. 7. In the disposition of the public lands granted by the United States to this state, preference shall always be given to actual settlers thereon, and the legislative assembly shall provide by law for carrying this section into effect.

SEC. 8. The legislative assembly may at any time, by a vote of two-thirds of the members elected to each house, submit to the electors of the state the question whether there shall be a convention to revise, alter, or amend this constitution; and if a majority of those voting on the question shall declare in favor of such convention, the legislative assembly shall at its next session provide for the calling thereof. The number of members of the convention shall be the same as that of the house of representatives, and they shall be elected in the same manner, at the same places, and in the same districts. The legislative assembly shall in the act calling the convention designate the day, hour and place of its meeting, fix the pay of its members and officers, and provide for the payment of the same, together with the necessary expenses of the convention. Before proceeding, the members shall take an oath to support the constitution of the United States and of the state of Montana, and to faithfully discharge their duties as members of the convention. The qualifications of members shall be the same as of members of the senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the legislative assembly. Said convention shall meet within three months after such election and prepare such revisions, alterations or amendments to the constitution as may be deemed necessary, which shall be submitted to the electors for their ratification or

rejection at an election appointed by the convention for that purpose, not less than two or more than six months after the adjournment thereof, and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take effect.

SEC. 9. Amendments to this constitution may be proposed in either house of the legislative assembly; and if the same shall be voted for by two-thirds of the members elected to each house, such proposed amendments, together with the ayes and nays of each house thereon, shall be entered in full on their respective journals; and the secretary of state shall cause the said amendment or amendments to be published in full in at least one newspaper in each county (if such there be) for three months previous to the next general election for members of the legislative assembly; and at said election the said amendment or amendments shall be submitted to the qualified electors of the state for their approval or rejection. Should more amendments than one be submitted at the same election, they shall be so prepared and distinguished by numbers or otherwise that each can be voted on separately; *provided*, however, that not more than three amendments to this constitution shall be submitted at the same election.

ARTICLE XX.

SCHEDULE.

That no inconvenience may arise by reason of changing from a territorial to a state form of government, it is declared as follows:

SECTION 1. All laws enacted by the legislative assembly of the territory of Montana and in force at the time the state shall be admitted into the union and not inconsistent with this constitution or the constitution or laws of the United States of America, shall be and remain in full force as the laws of the state until altered or repealed, or until they expire by their own limitation; *provided*, that whenever in said laws the words, "Territory," "Montana Territory" or "Territory of Montana" occur, the words "State" or "State of Montana" shall be appropriately substituted and read therefor; *And, provided further*, that the duties which now by law devolve upon probate judges as jury commissioners and in rela-

tion to issuing marriage licenses and filing and recording marriage certificates, and the duties as ex officio clerks of their own courts, shall, until otherwise provided by law, devolve upon and be performed by the clerks of the district courts in their respective counties; *And, provided further,* that the duties of probate judges now imposed by law relative to town sites and to the approval of bonds of other county officers shall, until otherwise provided by law, be performed by the district judges in the several counties in their respective districts.

SEC. 2. All lawful orders, judgments and decrees in civil causes, all contracts and claims and all lawful convictions, judgments and sentences in criminal actions, made and entered, or pronounced by the courts within the territory of Montana, and in force at the time the state shall be admitted into the union, shall continue and be and remain in full force in the state unaffected in any respect by the change from a territorial to a state form of government, and may be enforced and executed under the laws of the state.

SEC. 3. No crime or criminal offense committed against the laws of the territory of Montana shall abate, or be in any wise affected, by reason of the change from a territorial to a state form of government; but the same shall be deemed and taken to be an offense against the laws of the state, and the appropriate courts of the state shall have jurisdiction over and to hear and determine the same; *provided*, that this section shall not in any wise be construed to change the law of the statute of limitations, or the due effect or application of the same.

SEC. 4. Except as herein otherwise provided, the word "district" shall be substituted and read in lieu of the word "probate" in the terms "probate court" or "probate judge" whenever the same occur in the laws of the territory of Montana, and all said laws which by their terms apply to probate courts or probate judges shall, except as in this constitution otherwise provided, upon a change from territorial to state government, be deemed and taken to apply to district courts and district judges; *provided*, that all laws allowing fees to probate judges are hereby repealed.

SEC. 5. Clerks of district courts, until otherwise provided by law, shall each perform the duties and be entitled to the same fees as now provided by law for clerks of the district courts of the territory, and until otherwise provided by law shall also per-

form the services and be entitled to fees therefor that are now provided for clerks of probate courts.

SEC. 6. Upon a change from territorial to state government the seals in use by the supreme court and the territorial district courts in and for the several counties respectively, shall pass to and become, until otherwise provided by law, the seals respectively of the supreme court and of the district courts of the state in such counties.

SEC. 7. Prosecutions for criminal offenses against the laws of the territory of Montana, pending at the time the state shall be admitted into the union shall not abate; but the same shall continue and be prosecuted in the name of the state of Montana, and the title of every such action shall be changed to conform to this provision.

SEC. 8. Parties who, at the time of the admission of the state into the union, may be confined under lawful commitments, or otherwise lawfully held to answer for alleged violations of any of the criminal laws of the territory of Montana, shall continue to be so confined or held until discharged therefrom by the proper courts of the state.

SEC. 9. All writs, processes, prosecutions, actions, causes of action, defenses, claims and rights of individulas, associations and bodies corporate existing at the time the state shall be admitted into the union, shall continue and be respectively executed, proceeded with, determined, enforced and protected under the laws of the state.

SEC. 10. All undertakings, bonds, obligations and recognizances in force at the time the state shall be admitted into the union, which were executed to the territory of Montana, or any officer thereof in his official capacity, or to any official board for the benefit of the territory of Montana, are hereby respectively assigned and transferred to the state of Montana, to the state officer successor to said territorial officer, or to the official board successor to the aforesaid official board, for the use of the state, as the case may be, and shall be as valid and binding as if executed under state law to the state, or state officer in his official capacity, or official board, for the benefit of the state; and all fines, taxes, penalties and forfeitures due or owing to the territory of Montana or to any county, school district, or municipality therein, at the time the state shall be admitted into the union, are hereby

respectively assigned and transferred, and the same shall be payable to the state, county, school district or municipality, as the case may be, and payment thereof may be enforced under the laws of the state.

SEC. 11. All property, real or personal, and all moneys, credits, claims, demands and choses in action of every kind, belonging to the territory of Montana at the time the state shall be admitted into the union, are hereby assigned and transferred to, and shall be vested in, and become the property of the state of Montana.

SEC. 12. All obligations of the territory of Montana, existing, in force and unpaid at the time of the admission of the state into the union are hereby assumed by the state, which shall and will well and truly pay the same.

SEC. 13. All matters, cases and proceedings pending in any probate court in the territory of Montana, at the time the state shall be admitted into the union, and all official records, files, moneys, and other property of, or pertaining to such court, are hereby transferred to the district court in and for the same county, and such district court shall have full power and jurisdiction to hear, determine and dispose of all such matters, cases and proceedings.

SEC. 14. All actions, cases and proceedings, and matters which shall be pending in the supreme and district courts of Montana territory at the time of the admission of the state into the union whereof the United States circuit or district court might have had jurisdiction, had such court existed at the commencement of such actions, cases, proceedings and matters, respectively, shall be transferred to said United States circuit and district courts respectively; and all the files, records, indictments and proceedings relating to such actions, cases, proceedings and matters shall be transferred to said United States courts; *Provided,* That no civil action, cause or proceeding to which the United States is not a party shall be transferred to either of said United States courts except upon written request of one of the parties thereto, and in the absence of such request, such case shall be proceeded with in the proper state courts.

SEC. 15. All actions, cases, proceedings and matters pending in the supreme and district courts of the territory of Montana at the time the state shall be admitted into the union, and all files,

records and indictments relating thereto, except as otherwise provided herein, shall be appropriately transferred, as may be proper, to the supreme and district courts of the state, respectively, and all such actions, cases, and matters shall be proceeded with in the proper state courts.

SEC. 16. Upon a change from a territorial to a state government, and until otherwise provided by law, the great seal of the territory shall be deemed and taken to be the great seal of the state of Montana.

SEC. 17. All territorial, county and township officers now occupying their respective positions under the laws of the territory of Montana, or of the United States of America, shall continue and remain in their respective official positions and perform the duties thereof as now provided by law after the state is admitted into the union, and shall be considered state officers until their successors in office shall be duly elected and qualified, as provided by ordinance, notwithstanding any inconsistent provisions in this constitution, and shall be entitled to the same compensation for their services as is now established by law; *Provided,* That the compensation for justices of the supreme court, governor and secretary of the territory shall be paid by the state of Montana.

Done in open convention at the city of Helena in the territory of Montana, this seventeenth day of August, in the year of our Lord one thousand eight hundred and eighty-nine.

ORDINANCE NO. I.

FEDERAL RELATIONS.

BE IT ORDAINED: First. That perfect toleration of religious sentiment shall be secured and that no inhabitant of the state of Montana shall ever be molested in person or property, on account of his or her mode of religious worship.

Second. That the people inhabiting the said proposed state of Montana do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the

same shall be and remain subject to the disposition of the United States and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to citizens of the United States, residing without the said state of Montana, shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the said state of Montana on lands or property therein belonging to, or which may hereafter be purchased by the United States or reserved for its use. But nothing herein contained shall preclude the said state of Montana from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of congress containing a provision exempting the lands thus granted from taxation, but said last named lands shall be exempt from taxation by said state of Montana so long and to such extent as such act of congress may prescribe.

Third. That the debts and liabilities of said territory of Montana shall be assumed and paid by the said state of Montana.

Fourth. That provision shall be made for the establishment and maintenance of a uniform system of public schools, which shall be open to all the children of said state of Montana and free from sectarian control.

Fifth. That on behalf of the people of Montana, we, in convention assembled, do adopt the constitution of the United States.

Sixth. That the ordinances in this article shall be irrevocable without the consent of the United States and the people of said state of Montana.

Seventh. The state hereby accepts the several grants of land from the United States to the state of Montana, mentioned in an act of congress, entitled "An act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments, and to be admitted into the union on an equal footing with the original states, and to make donations of public lands to such states." Approved February 22d, 1889, upon the terms and conditions therein provided.

ORDINANCE II.

ELECTIONS.

Be it Ordained by the Convention assembled to form a Constitution for the State of Montana:

First. That an election shall be held throughout the territory of Montana on the first Tuesday of October, 1889, for the ratification or rejection of the constitution framed and adopted by this convention.

Second. At said election the constitution framed and adopted by this convention shall be submitted to the people of the territory for their ratification or rejection, and all persons who are then qualified electors under the laws of this territory shall be qualified to vote for the ratification or rejection thereof.

Third. Said elections shall be held at the several polling places and precincts throughout the territory appointed for the holding of elections under the laws of the territory, and shall be conducted in the manner prescribed by the laws of the territory regulating elections. The boards of county commissioners of the several counties of the territory shall appoint judges and clerks of such election in each of said polling places and precincts in the same manner as is now required by law for the appointment of judges and clerks of general elections in the territory.

Fourth. Each elector voting at said election shall have written or printed upon the ticket he may deposit in the ballot box, the words "For the Constitution" or "Against the Constitution."

Fifth. The votes cast at said election for the adoption or rejection of said constitution shall be canvassed by the canvassing boards of the respective counties not later than fifteen days after said election, or sooner, if the returns from all of the precincts shall have been received and in the manner prescribed by the laws of the territory of Montana for canvassing the votes at general elections in said territory, and the returns of said election shall be made to the secretary of the territory, who with the governor, and the chief justice of the territory, or any two of them, shall constitute a board of canvassers who shall meet at the office of the secretary of the territory on, or before, the thirtieth day after the election, and canvass the votes so cast and declare the result.

Sixth. That on the first Tuesday in October, 1889, there shall

be elected by the qualified electors of Montana, a governor, a lieutenant governor, a secretary of state, an attorney general, a state treasurer, a state auditor, a state superintendent of public instruction, one chief justice and two associate justices of the supreme court, a judge for each of the judicial districts established by this constitution, a clerk of the supreme court, and a clerk of the district court in and for each county of the state, and the members of the legislative assembly provided for in this constitution. The terms of officers so elected shall begin when the state shall be admitted into the union and shall end on the first Monday in January, 1893, except as otherwise provided.

Seventh. There shall be elected at the same time one representative in the fifty-first congress of the United States.

Eighth. The votes for the above officers shall be returned and canvassed as is provided by law, and returns shall be made to the secretary of the territory and canvassed in the same manner and by the same board as is the vote upon the constitution, except as to clerk of the district court.

Ninth. There shall also be elected at the same time the following county and township officers: Three county commissioners, one clerk of the board of commissioners and ex-officio recorder, one sheriff, one county treasurer, one county superintendent of common schools, one county surveyor, one county assessor, one coroner, one public administrator, one county attorney, two justices of the peace, and two constables for each township. The terms of office for the above named officers shall begin upon the admission of the state and end upon the first Monday of January, A. D. 1893, except, as to county treasurer, whose term shall begin on the first Monday in March succeeding his election, and end on the first Monday of March, A. D. 1893, and also, as to county commissioners whose terms are otherwise provided for in this constitution.

Tenth. The votes for the above county and township officers and for clerk of the district court, shall be returned and canvassed and certificates of election to said officers issued as is now provided by law.

Eleventh. Notice of the election for the adoption or rejection of this constitution, and for state, district, county and township officers shall be given by the clerks of the several boards of county commissioners in the same manner as notice of general

elections for delegate to congress and county officers is required to be given by the existing laws of the territory.

Twelfth. That the provisions of this ordinance shall apply only to the election and to the officers elected on the first Tuesday of October, 1889.

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